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Agenda item 66

Elimination of racism, racial discrimination, xenophobia and related intolerance

Report of the Third Committee

Rapporteur: Mr. Asif Garayev (Azerbaijan)

I. Introduction

1. At its 2nd plenary meeting, on 17 September 2010, the General Assembly, on the recommendation of the General Committee, decided to include in the agenda of its sixty-fifth session the item entitled:

“Elimination of racism, racial discrimination, xenophobia and related intolerance;

“(a) Elimination of racism, racial discrimination, xenophobia and related intolerance;

“(b) Comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action”

and to allocate it to the Third Committee.

2. The Third Committee held a general discussion on the item jointly with item 67, entitled “Right of peoples to self-determination”, at its 36th, 37th and 40th meetings, on 1 and 3 November 2010, and considered proposals and took action on the item at its 43rd, 46th, 48th and 52nd meetings, on 9, 16, 18 and 23 November. An account of the Committee’s discussion is contained in the relevant summary records (A/C.3/65/SR.36, 37, 40, 43, 46, 48 and 52).

3. For its consideration of the item, the Committee had before it the following documents:



Item 66 (a)**Elimination of racism, racial discrimination, xenophobia and related intolerance**

Report of the Committee on the Elimination of Racial Discrimination on its seventy-fourth and seventy-fifth sessions¹

Report of the Committee on the Elimination of Racial Discrimination on its seventy-sixth and seventy-seventh sessions (A/65/18)²

Report of the Secretary-General on the status of the International Convention on the Elimination of All Forms of Racial Discrimination (A/65/292)

Report of the Secretary-General on the financial situation of the Committee on the Elimination of Racial Discrimination (A/65/312)

Note by the Secretary-General transmitting the report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance on the implementation of General Assembly resolution 64/147 (A/65/323)

Item 66 (b)**Comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action**

Report of the Secretary-General on global efforts for the total elimination of racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action (A/65/377)

Note by the Secretary-General transmitting the interim report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (A/65/295)

4. At the 36th meeting, on 1 November, the Deputy Director of the Office of the United Nations High Commissioner for Human Rights made an introductory statement (see A/C.3/65/SR.36).

5. At the same meeting, the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance made a presentation and engaged in a dialogue with the representatives of Switzerland, Norway, Pakistan, Kenya, Singapore, Denmark, the Russian Federation, the Syrian Arab Republic, Brazil, the United States of America, Maldives and Algeria, as well as with the observer for the European Union.

6. Also at the 36th meeting, the Chair of the Committee on the Elimination of Racial Discrimination made a presentation and engaged in a dialogue with the representatives of Pakistan, Switzerland, Brazil, Norway and the Islamic Republic of Iran, as well as with the observer for the European Union.

7. At the same meeting, the Chair of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination made a presentation and engaged in an

¹ *Official Records of the General Assembly, Sixty-fourth Session, Supplement No. 18 (A/64/18).*

² *Ibid., Sixty-fifth Session, Supplement No. 18 (A/65/18).*

interactive dialogue with the representatives of Cuba, Pakistan, China, the Russian Federation and South Africa.

8. At the 37th meeting, on 1 November, following a statement by the Chair (see A/C.3/65/SR.37), the Committee agreed to postpone the deadline for the submission of proposals under item 66 to Thursday, 4 November, at 6 p.m.

II. Consideration of proposals

A. Draft resolution A/C.3/65/L.50

9. At the 43rd meeting, on 9 November, the representative of the Russian Federation, on behalf of Angola, Belarus, Benin, Bolivia (Plurinational State of), Cuba, the Democratic People's Republic of Korea, Eritrea, Guinea, Kazakhstan, Kyrgyzstan, Myanmar, Nicaragua, the Russian Federation, the Sudan, Tajikistan, Turkmenistan, Uganda, Uzbekistan, Venezuela (Bolivarian Republic of) and Zimbabwe, introduced a draft resolution entitled "Inadmissibility of certain practices that contribute to fuelling contemporary forms of racism, racial discrimination, xenophobia and related intolerance" (A/C.3/65/L.50). Subsequently, Cape Verde, the Central African Republic, Côte d'Ivoire, Ethiopia, Gabon, India, Iraq, Namibia, Nigeria, Seychelles and Viet Nam joined in sponsoring the draft resolution.

10. At the 46th meeting, on 16 November, the representative of the Russian Federation orally revised the draft resolution as follows:

(a) In operative paragraph 24, after the words "Expresses its appreciation to those Governments", the words "and non-governmental organizations" were deleted;

(b) A new operative paragraph was inserted after operative paragraph 24, reading:

"Also expresses its appreciation to representatives of civil society for their contribution to the fight against racism, racial discrimination, xenophobia and related intolerance".

11. At the same meeting, a statement was made by the representative of Belarus (see A/C.3/65/SR.46).

12. Also at its 46th meeting, the Committee adopted draft resolution A/C.3/65/L.50, as orally revised, by a recorded vote of 118 to 1, with 55 abstentions (see para. 27, draft resolution I). The voting was as follows:

In favour:

Afghanistan, Algeria, Angola, Antigua and Barbuda, Argentina, Armenia, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belize, Benin, Bhutan, Bolivia (Plurinational State of), Botswana, Brazil, Brunei Darussalam, Burkina Faso, Burundi, Cambodia, Cameroon, Cape Verde, Chile, China, Colombia, Congo, Costa Rica, Côte d'Ivoire, Cuba, Democratic People's Republic of Korea, Democratic Republic of the Congo, Djibouti, Dominican Republic, Ecuador, Egypt, El Salvador, Eritrea, Ethiopia, Ghana, Grenada, Guatemala, Guyana, Haiti, Honduras, India, Indonesia, Iran (Islamic Republic

of), Iraq, Israel, Jamaica, Jordan, Kazakhstan, Kenya, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Madagascar, Malaysia, Maldives, Mali, Mauritius, Mexico, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nepal, Nicaragua, Niger, Nigeria, Oman, Pakistan, Paraguay, Peru, Philippines, Qatar, Russian Federation, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Saudi Arabia, Senegal, Serbia, Singapore, Solomon Islands, Somalia, South Africa, Sri Lanka, Sudan, Suriname, Swaziland, Syrian Arab Republic, Tajikistan, Thailand, Timor-Leste, Trinidad and Tobago, Tunisia, Turkey, Turkmenistan, Tuvalu, Uganda, United Arab Emirates, United Republic of Tanzania, Uruguay, Uzbekistan, Vanuatu, Venezuela (Bolivarian Republic of), Viet Nam, Yemen, Zambia, Zimbabwe.

Against:

United States of America.

Abstaining:

Albania, Andorra, Australia, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Comoros, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Fiji, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malawi, Malta, Monaco, Montenegro, Netherlands, New Zealand, Norway, Panama, Papua New Guinea, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Rwanda, Samoa, San Marino, Sierra Leone, Slovakia, Slovenia, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Ukraine, United Kingdom of Great Britain and Northern Ireland.

13. Before the vote, statements were made by the representatives of Belgium (on behalf of the European Union and associated countries) and the United States of America; after the vote, a statement was made by the representative of Switzerland (see A/C.3/65/SR.46).

B. Draft resolution A/C.3/65/L.53 and Rev.1

14. At the 43rd meeting, on 9 November, the representative of Slovenia, on behalf of Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Croatia, the Czech Republic, Denmark, El Salvador, Finland, Georgia, Greece, Guatemala, Hungary, Kazakhstan, Latvia, Luxembourg, Monaco, Montenegro, the Netherlands, Portugal, the Republic of Moldova, Romania, Serbia, Slovenia, Sweden, Switzerland, Thailand and the former Yugoslav Republic of Macedonia, introduced a draft resolution entitled "International Convention on the Elimination of All Forms of Racial Discrimination" (A/C.3/63/L.53), which read:

"The General Assembly,

"Recalling its previous resolutions on the International Convention on the Elimination of All Forms of Racial Discrimination, most recently resolution 63/243 of 24 December 2008,

"Bearing in mind the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights on 25 June 1993, in particular section II.B of the Declaration, relating to equality, dignity and tolerance,

"Reiterating the need to intensify the struggle to eliminate all forms of racism, racial discrimination, xenophobia and related intolerance throughout the world,

"Reiterating also the importance of the Convention, which is one of the most widely accepted human rights instruments adopted under the auspices of the United Nations,

"Reaffirming that universal adherence to and full implementation of the Convention are of paramount importance for promoting equality and non-discrimination in the world, as stated in the Durban Declaration and Programme of Action adopted by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance on 8 September 2001,

"Mindful of the importance of the contributions of the Committee on the Elimination of Racial Discrimination to the effective implementation of the Convention and to the efforts of the United Nations to combat racism, racial discrimination, xenophobia and related intolerance,

"Emphasizing the obligation of all States parties to the Convention to take legislative, judicial and other measures to secure full implementation of the provisions of the Convention,

"Recalling its resolution 47/111 of 16 December 1992, in which it welcomed the decision, taken on 15 January 1992 by the Fourteenth Meeting of States Parties to the International Convention on the Elimination of All Forms of Racial Discrimination, to amend paragraph 6 of article 8 of the Convention and to add a new paragraph, as paragraph 7 of article 8, with a view to providing for the financing of the Committee from the regular budget of the United Nations, and reiterating its deep concern that the amendment to the Convention has not yet entered into force,

"Stressing the importance of enabling the Committee to function smoothly and to have all necessary facilities for the effective performance of its functions under the Convention,

"Noting that, as regards the biennium 2010-2011, the budgetary requirements related to the requested extension of meeting time will be met from within the approved budgetary provision and those for the biennium 2012-2013 will be dealt with in the context of the proposed programme budget for that biennium,

"Noting also the increasing number of requests for more meeting time from the human rights treaty monitoring bodies,

"1. Reports of the Committee on the Elimination of Racial Discrimination

"1. Takes note of the reports of the Committee on the Elimination of Racial Discrimination on its seventy-fourth and seventy-fifth and its seventy-sixth and seventy-seventh sessions;

"2. Commends the Committee for its contributions to the effective implementation of the International Convention on the Elimination of All Forms of Racial Discrimination, especially through the examination of reports under article 9 of the Convention, action on communications under article 14

of the Convention and thematic discussions, which contribute to the prevention and elimination of racism, racial discrimination, xenophobia and related intolerance;

"3. *Calls upon* States parties to fulfil their obligation, under article 9, paragraph 1, of the Convention, to submit their periodic reports on measures taken to implement the Convention in due time;

"4. *Expresses its concern* at the fact that a great number of reports are overdue and continue to be overdue, in particular initial reports, which constitutes an obstacle to the full implementation of the Convention;

"5. *Encourages* States parties to the Convention whose reports are seriously overdue to avail themselves of the advisory services and technical assistance that the Office of the United Nations High Commissioner for Human Rights can provide, upon their request, for the preparation of the reports;

"6. *Also encourages* States parties to the Convention to take into account, in their nomination of members to the Committee on the Elimination of Racial Discrimination, that the Committee shall be composed of persons of high moral character, acknowledged impartiality and recognized competence in the field of human rights, consideration being given to the usefulness of the participation of some persons having legal experience and to the equal representation of women and men, and that members shall serve in their personal capacity, and reiterates that, in the elections to the Committee, consideration shall be given to equitable geographical distribution in the membership and to the representation of the different forms of civilization and of the principal legal systems;

"7. *Encourages* the Committee to continue to cooperate and exchange information with United Nations bodies and mechanisms, in particular with the Human Rights Council, its Advisory Committee and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, and with intergovernmental organizations, as well as with non-governmental organizations;

"8. *Encourages* States parties to the Convention to continue to include a gender perspective in their reports to the Committee on the Elimination of Racial Discrimination, and invites the Committee to take into account a gender perspective in the implementation of its mandate;

"9. *Calls upon* States parties to the Convention to include information on measures to prevent and combat racism, racial discrimination, xenophobia and related intolerance in their national reports to the universal periodic review mechanism of the Human Rights Council, and encourages States parties to the Convention to take into account the relevant recommendations derived therefrom in strengthening the implementation of the Convention;

"10. *Notes with appreciation* the engagement of the Committee in the follow-up to the Durban Declaration and Programme of Action;

"11. *Expresses its appreciation* for the efforts made so far by the Committee to improve the efficiency of its working methods, including with a

view to further harmonizing the working methods of the treaty bodies, and encourages the Committee to continue its activities in this regard;

"12. *Welcomes*, in this regard, measures taken by the Committee to follow up on its concluding observations and recommendations, such as the appointment of a follow-up coordinator and the adoption of the guidelines on follow-up;

"13. *Encourages* the continued participation of members of the Committee in the annual inter-committee meetings and meetings of chairpersons of the human rights treaty bodies, especially with a view to a more coordinated approach to the activities of the treaty body system and standardized reporting as well as to solving the problem of the backlog of reports of States parties in an effective manner, including by identifying efficiencies and maximizing the use of their resources as well as learning and sharing best practices and experiences in this regard;

"14. *Notes* the persistent backlog of reports of States parties awaiting consideration, which prevents the Committee from considering the periodic reports of States parties in a timely manner and without undue delay;

"15. *Recalls* the decision by the General Assembly, in its resolution 63/243, to allow the Committee to meet twice a year for four weeks until the end of 2011, and notes the request of the Committee that the Assembly extend the authorization of the per session meeting time starting in 2012;

"16. *Welcomes* the evaluation of the use of additional meeting time by the human rights treaty bodies, taking into account a more comprehensive approach to the backlog of human rights treaty bodies and the increasing number of reports of States parties to the human rights conventions prepared by the Office of the United Nations High Commissioner for Human Rights, and stresses its conclusion that the additional meeting time has allowed the Committee to reduce the backlog of reports and that a return to the normal three-week sessions would immediately increase the backlog, which would then have serious consequences for the effectiveness and credibility of the Committee;

"17. *Decides* to extend the authorization to the Committee to meet, on a temporary basis, starting from 2012 until the end of 2013, for four weeks per session;

"18. *Requests* the Secretary-General to submit to the General Assembly at its sixty-sixth session concrete proposals on the human rights treaty monitoring bodies, building on the work of the Secretary-General pursuant to Human Rights Council resolution 9/8 of 24 September 2008, to increase their effectiveness and to identify efficiencies in their working methods and costs in order better to manage their workloads and programmes of work, bearing in mind budgetary constraints and taking account of the varying burdens on each Committee;

"II. Financial situation of the Committee on the Elimination of Racial Discrimination

"19. *Takes note* of the report of the Secretary-General on the financial situation of the Committee on the Elimination of Racial Discrimination;

"20. *Expresses its profound concern* at the fact that a number of States parties to the International Convention on the Elimination of All Forms of Racial Discrimination have still not fulfilled their financial obligations, as shown in the report of the Secretary-General, and strongly appeals to all States parties that are in arrears to fulfil their outstanding financial obligations under article 8, paragraph 6, of the Convention;

"21. *Strongly urges* States parties to the Convention to accelerate their domestic ratification procedures with regard to the amendment to the Convention concerning the financing of the Committee and to notify the Secretary-General expeditiously in writing of their agreement to the amendment, as decided upon at the Fourteenth Meeting of States Parties to the International Convention on the Elimination of All Forms of Racial Discrimination on 15 January 1992, endorsed by the General Assembly in its resolution 47/111 and further reiterated at the Sixteenth Meeting of States Parties on 16 January 1996;

"22. *Requests* the Secretary-General to continue to ensure adequate financial arrangements and to provide the necessary support, including an adequate level of Secretariat assistance, in order to ensure the functioning of the Committee and to enable it to cope with its increasing amount of work;

"23. *Also requests* the Secretary-General to invite those States parties to the Convention that are in arrears to pay the amounts in arrears, and to report thereon to the General Assembly at its sixty-seventh session;

"III. Status of the International Convention on the Elimination of All Forms of Racial Discrimination

"24. *Commemorates* the forty-fifth anniversary of the adoption of the Convention on the Elimination of All Forms of Racial Discrimination, and takes this opportunity to call for the effective implementation of the Convention by all States parties to eliminate all forms of racial discrimination;

"25. *Takes note* of the report of the Secretary-General on the status of the International Convention on the Elimination of All Forms of Racial Discrimination;

"26. *Expresses its satisfaction* at the number of States that have ratified or acceded to the Convention, which now stands at one hundred and seventy-three;

"27. *Urges* States parties to comply fully with their obligations under the Convention and to take into consideration the concluding observations and general recommendations of the Committee on the Elimination of Racial Discrimination;

"28. *Reaffirms its conviction* that ratification of or accession to the Convention on a universal basis and the implementation of its provisions are necessary for the effectiveness of the fight against racism, racial discrimination, xenophobia and related intolerance and for the implementation of the commitments undertaken under the Durban Declaration and Programme of Action, and expresses its disappointment that universal ratification of the Convention was not achieved by the targeted date of 2005;

"29. *Urges* all States that have not yet become parties to the Convention to ratify or accede to it as a matter of urgency;

"30. *Urges* States to limit the extent of any reservation they lodge to the Convention and to formulate any reservation as precisely and as narrowly as possible in order to ensure that no reservation is incompatible with the object and purpose of the Convention, to review their reservations on a regular basis with a view to withdrawing them, and to withdraw reservations that are contrary to the object and purpose of the Convention;

"31. *Notes* that the number of States parties to the Convention that have made the declaration provided for in article 14 of the Convention now stands at fifty-four, and requests States parties that have not yet done so to consider making that declaration;

"32. *Invites* the Chairperson of the Committee on the Elimination of Racial Discrimination to present an oral report on the work of the Committee and to engage in an interactive dialogue with the General Assembly at its sixty-seventh session under the item entitled 'Elimination of racism, racial discrimination, xenophobia and related intolerance';

"33. *Decides* to consider, at its sixty-seventh session, under the item entitled 'Elimination of racism, racial discrimination, xenophobia and related intolerance', the reports of the Committee on its seventy-eighth and seventy-ninth and its eightieth and eighty-first sessions, the report of the Secretary-General on the financial situation of the Committee and the report of the Secretary-General on the status of the Convention."

15. At its 48th meeting, on 18 November, the Committee had before it a revised draft resolution entitled "International Convention on the Elimination of All Forms of Racial Discrimination" (A/C.3/65/L.53/Rev.1), for which the Secretary read out a statement of programme budget implications.

16. At the same meeting, the representative of Slovenia orally revised operative paragraph 15 of the draft resolution by deleting the words "and 2013" after the words "in 2012".

17. Subsequently, Argentina, Brazil, Bulgaria, Canada, Chile, China, Costa Rica, Cyprus, Ecuador, Estonia, France, Germany, Honduras, Iceland, India, Ireland, Kyrgyzstan, Lithuania, Madagascar, Malta, Nicaragua, the Niger, Nigeria, Norway, Panama, Poland, the Republic of Korea, Slovakia, Spain, Timor-Leste, Turkey, Ukraine and Venezuela (Bolivarian Republic of) joined in sponsoring the draft resolution.

18. Also at its 48th meeting, the Committee adopted draft resolution A/C.3/65/L.53/Rev.1, as orally revised (see para. 27, draft resolution II).

19. After the adoption of the draft resolution, a statement was made by the representative of the United States of America (see A/C.3/65/SR.48).

C. Draft resolution A/C.3/65/L.60

20. At the 46th meeting, on 16 November, the representative of Yemen, on behalf of the States Members of the United Nations that are members of the Group of 77

and China, joined by Kazakhstan and the Russian Federation, introduced a draft resolution entitled "Global efforts for the total elimination of racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action" (A/C.3/65/L.60), which read:

"The General Assembly,

"Recalling its resolution 52/111 of 12 December 1997, in which it decided to convene the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, and its resolutions 56/266 of 27 March 2002, 57/195 of 18 December 2002, 58/160 of 22 December 2003, 59/177 of 20 December 2004 and 60/144 of 16 December 2005, which guided the comprehensive follow-up to and effective implementation of the World Conference, and in this regard underlining the importance of their full and effective implementation,

"Welcoming the outcome of the Durban Review Conference convened in Geneva from 20 to 24 April 2009 within the framework of the General Assembly in accordance with its resolution 61/149 of 19 December 2006,

"Recalling its resolution 64/148 of 26 March 2010 in which, inter alia, it called for the 10-year commemoration of the Durban Declaration and Programme of Action adopted by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, held in Durban, South Africa, from 31 August to 8 September 2001,

"Noting the approaching commemoration of the tenth anniversary of the adoption of the Durban Declaration and Programme of Action in September 2011,

"Underlining the fact that the commemoration of the tenth anniversary of the adoption of the Durban Declaration and Programme of Action represents an important opportunity for the international community to reaffirm its commitment to the eradication of racism, racial discrimination, xenophobia and related intolerance, and encouraging States and communities to commemorate the tenth year anniversary in all regions through a wide range of activities,

"Recalling all of the relevant resolutions and decisions of the Commission on Human Rights and of the Human Rights Council on this subject, and calling for their implementation to ensure the successful implementation of the Durban Declaration and Programme of Action,

"Noting Human Rights Council decision 3/103 of 8 December 2006, by which, heeding the decision and instruction of the World Conference, the Council established the Ad Hoc Committee of the Human Rights Council on the Elaboration of Complementary Standards, and deeply regretting the slow progress made in discharging its mandate,

"Bearing in mind the responsibility and obligations of the Human Rights Council emanating from the outcome of the Durban Review Conference,

"Reiterating that all human beings are born free and equal in dignity and rights and have the potential to contribute constructively to the development

and well-being of their societies, and that any doctrine of racial superiority is scientifically false, morally condemnable, socially unjust and dangerous and must be rejected, together with theories that attempt to determine the existence of separate human races,

"Convinced that racism, racial discrimination, xenophobia and related intolerance manifest themselves in a differentiated manner for women and girls and may be among the factors leading to a deterioration in their living conditions, poverty, violence, multiple forms of discrimination and the limitation or denial of their human rights, and recognizing the need to integrate a gender perspective into relevant policies, strategies and programmes of action against racism, racial discrimination, xenophobia and related intolerance in order to address multiple forms of discrimination,

"Underlining the primacy of political will, international cooperation and adequate funding at the national, regional and international levels needed to address all forms and manifestations of racism, racial discrimination, xenophobia and related intolerance,

"Expressing serious concern at recent actions taken by some Member States to deport the Roma, which is a vulnerable ethnic minority, and urging States to fully implement their commitments and obligations under international law and relevant international human rights instruments,

"Expressing concern at recent deeply marked tendencies within numerous societies to characterize migration as a problem and threat to social cohesion,

"Alarmed at the increase in racist violence and xenophobic ideas in many parts of the world, in political circles, in the sphere of public opinion and in society at large, inter alia, as a result of the resurgent activities of associations established on the basis of racist and xenophobic platforms and charters, and the persistent use of those platforms and charters to promote or incite racist ideologies,

"Underlining the importance of urgently eliminating continuing and violent trends involving racism and racial discrimination, and conscious that any form of impunity for crimes motivated by racist and xenophobic attitudes plays a role in weakening the rule of law and democracy, tends to encourage the recurrence of such crimes and requires resolute action and cooperation for its eradication,

"Expressing grave concern at the lack of progress made in the implementation of the Durban Declaration and Programme of Action, particularly key paragraphs 157 to 159 of the Programme of Action,

"Welcoming the continued commitment of the United Nations High Commissioner for Human Rights to profile and increase the visibility of the struggle against racism, racial discrimination, xenophobia and related intolerance, and recognizing the need for the High Commissioner to make this a cross-cutting issue in the activities and programmes of her Office,

"Welcoming also the conclusions and recommendations of the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action at its seventh and eighth

sessions held from 5 to 16 October 2009 and from 11 to 22 October 2010, respectively, in particular the recommendation on the commemoration of the tenth anniversary of the adoption of the Durban Declaration and Programme of Action,

"Recognizing the potential of sport as a universal language contributing to educating people on the values of diversity, tolerance and fairness and as a means to combat racism, racial discrimination, xenophobia and related intolerance,

"Welcoming the hosting of the 2010 and 2014 International Federation of Association Football World Cups in South Africa and in Brazil, respectively, and stressing the importance of making continuing use of these events to promote understanding, tolerance and peace, and to promote and strengthen efforts in the fight against racism, racial discrimination, xenophobia and related intolerance,

"1. General principles

"1. Acknowledges that no derogation from the prohibition of racial discrimination, genocide, the crime of apartheid or slavery is permitted, as defined in the obligations under the relevant human rights instruments;

"2. Expresses its profound concern about and its unequivocal condemnation of all forms of racism and racial discrimination, including related acts of racially motivated violence, xenophobia and intolerance, as well as propaganda activities and organizations that attempt to justify or promote racism, racial discrimination, xenophobia and related intolerance in any form;

"3. Re-emphasizes that international cooperation is a key principle in achieving the goal of total elimination of racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action;

"4. Expresses deep concern at inadequate responses to emerging and resurgent forms of racism, racial discrimination, xenophobia and related intolerance, and urges States to adopt measures to address these scourges vigorously with a view to preventing their practice and protecting victims;

"5. Underlines the imperative need to address all the contemporary forms and manifestations of racism, racial discrimination, xenophobia and related intolerance, which include, inter alia, incitement to such hatred, racial profiling, propagating racist and xenophobic acts through cyberspace, with a view to maximizing protection for victims, providing legal remedies and combating impunity;

"6. Stresses that States and international organizations have a responsibility to ensure that measures taken in the struggle against terrorism do not discriminate in purpose or effect on grounds of race, colour, descent or national or ethnic origin, and urges all States to rescind or refrain from all forms of racial profiling;

"7. Recognizes that States should implement and enforce appropriate and effective legislative, judicial, regulatory and administrative measures to prevent and protect against acts of racism, racial discrimination, xenophobia

and related intolerance, thereby contributing to the prevention of human rights violations;

"8. *Also recognizes* that racism, racial discrimination, xenophobia and related intolerance occur on the grounds of race, colour, descent or national or ethnic origin and that victims can suffer multiple or aggravated forms of discrimination based on other related grounds, such as sex, language, religion, political or other opinion, social origin, property, birth or other status;

"9. *Reaffirms* that any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law;

"10. *Emphasizes* that it is the responsibility of States to adopt effective measures to combat criminal acts motivated by racism, racial discrimination, xenophobia and related intolerance, including measures to ensure that such motivations are considered an aggravating factor for the purposes of sentencing, to prevent those crimes from going unpunished and to ensure the rule of law;

"11. *Urges* all States to review and, where necessary, revise their immigration laws, policies and practices so that they are free of racial discrimination and compatible with their obligations under international human rights instruments;

"12. *Calls upon* all States, in accordance with the commitments undertaken in paragraph 147 of the Durban Programme of Action, to take all measures necessary to combat incitement to violence motivated by racial hatred, including through the misuse of print, audio-visual and electronic media and new communication technologies, and, in collaboration with service providers, to promote the use of such technologies, including the Internet, to contribute to the fight against racism, in conformity with international standards of freedom of expression and taking all measures necessary to guarantee that right;

"13. *Encourages* all States to include in their educational curricula and social programmes at all levels, as appropriate, knowledge of and tolerance and respect for all cultures, civilizations, religions, peoples and countries, as well as information on the follow-up to and implementation of the Durban Declaration and Programme of Action;

"14. *Stresses* the responsibility of States to mainstream a gender perspective in the design and development of prevention, education and protection measures aimed at the eradication of racism, racial discrimination, xenophobia and related intolerance at all levels, to ensure that they effectively target the distinct situations of women and men;

"II. International Convention on the Elimination of All Forms of Racial Discrimination

"15. *Reaffirms* that universal adherence to and full implementation of the International Convention on the Elimination of All Forms of Racial Discrimination are of paramount importance for the fight against racism, racial

discrimination, xenophobia and related intolerance, and for the promotion of equality and non-discrimination in the world;

"16. *Expresses grave concern* that universal ratification of the Convention has not yet been reached, despite commitments under the Durban Declaration and Programme of Action, and calls upon those States that have not yet done so to accede to the Convention as a matter of urgency;

"17. *Urges*, in the above context, the Office of the United Nations High Commissioner for Human Rights to maintain on its website and issue regular updates on a list of countries that have not yet ratified the Convention and to encourage those countries to ratify it at the earliest;

"18. *Expresses concern* at the serious delays in the submission of overdue reports to the Committee on the Elimination of Racial Discrimination, which impede the effectiveness of the Committee, makes a strong appeal to all States parties to the Convention to comply with their treaty obligations, and reaffirms the importance of the provision of technical assistance to requesting countries in the preparation of their reports to the Committee;

"19. *Invites* States parties to the Convention to ratify the amendment to article 8 of the Convention on the financing of the Committee, and calls for adequate additional resources from the regular budget of the United Nations to enable the Committee to discharge its mandate fully;

"20. *Urges* all States parties to the Convention to intensify their efforts to implement the obligations that they have accepted under article 4 of the Convention, with due regard to the principles of the Universal Declaration of Human Rights and article 5 of the Convention;

"21. *Recalls* that the Committee holds that the prohibition of the dissemination of ideas based on racial superiority or racial hatred is compatible with the right to freedom of opinion and expression as outlined in article 19 of the Universal Declaration of Human Rights and in article 5 of the Convention;

"22. *Welcomes* the emphasis placed by the Committee on the importance of follow-up to the World Conference and the measures recommended to strengthen the implementation of the Convention as well as the functioning of the Committee;

"23. *Calls upon* Member States to ensure that their responses to the current financial and economic crisis should not lead to increased poverty and underdevelopment and, potentially, a rise in racism, racial discrimination, xenophobia and related intolerance against foreigners, immigrants, persons belonging to national, ethnic, religious and linguistic minorities all over the world;

"III. Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, and follow-up to his visits

"24. *Takes note* of the report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and the recommendations contained therein;

"25. *Takes note* of the work done by the Special Rapporteur, and welcomes Human Rights Council resolution 7/34 of 28 March 2008, by which the Council decided to extend the mandate of the Special Rapporteur for a period of three years;

"26. *Also takes note* of the reports of the Special Rapporteur, and encourages Member States and other relevant stakeholders to consider implementing the recommendations contained in the reports;

"27. *Reiterates its call* to all Member States, intergovernmental organizations, relevant organizations of the United Nations system and non-governmental organizations to cooperate fully with the Special Rapporteur, and calls upon States to consider responding favourably to his requests for visits so as to enable him to fulfil his mandate fully and effectively;

"28. *Recognizes with deep concern* the increase in anti-Semitism, Christianophobia and Islamophobia in various parts of the world, as well as the emergence of racial and violent movements based on racism and discriminatory ideas directed against Arab, Christian, Jewish and Muslim communities, as well as all religious communities, communities of people of African descent, communities of people of Asian descent, communities of indigenous people and other communities;

"29. *Encourages* closer collaboration between the Special Rapporteur and the Office of the United Nations High Commissioner for Human Rights, in particular the Anti-Discrimination Unit;

"30. *Urges* the High Commissioner to continue to provide States, at their request, with advisory services and technical assistance to enable them to implement fully the recommendations of the Special Rapporteur;

"31. *Requests* the Secretary-General to provide the Special Rapporteur with all the human and financial assistance necessary to carry out his mandate efficiently, effectively and expeditiously and to enable him to submit a report to the General Assembly at its sixty-sixth session;

"32. *Requests* the Special Rapporteur to continue giving particular attention to the negative impact of racism, racial discrimination, xenophobia and related intolerance on the full enjoyment of civil, cultural, economic, political and social rights by national or ethnic, religious and linguistic minorities, immigrant populations, asylum-seekers and refugees;

"33. *Invites* Member States to demonstrate greater commitment to fighting racism in sport by conducting educational and awareness-raising activities and by strongly condemning the perpetrators of racist incidents, in cooperation with national and international sports organizations;

"34. *Recommends* that States engage in broad efforts to eliminate racism, racial discrimination and related intolerance and to promote cultural, ethnic and religious diversity, and in that regard emphasizes the crucial role of education and a variety of awareness-raising measures which contribute to creating tolerant societies, where mutual understanding may be ensured;

"35. *Recommends* that all States give due attention to and closely monitor the way in which the concept of national identity is debated within

their societies, so that this concept will not be used as a tool to create artificial differences among some groups of the population;

"36. *Expressing concern* at recent deeply marked tendencies within numerous societies to characterize migration as a problem and threat to social cohesion and, in this context, notes the numerous human rights challenges in this regard;

"37. *Recommends* that States conduct human rights training for law enforcement officials, especially immigration officials and border police, so that they may act in conformity with international human rights law;

"38. *Recommends* that States collect disaggregated data in order to design appropriate anti-racial discrimination legislation and policies and monitor their effectiveness, while abiding by some key principles, including self-identification, the right to privacy guaranteeing consent of the concerned in the design and implementation of the exercise;

"IV. Outcomes of the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and the 2009 Durban Review Conference

"39. *Reaffirms* that the General Assembly is the highest intergovernmental mechanism for the formulation and appraisal of policy on matters relating to the economic, social and related fields, in accordance with Assembly resolution 50/227 of 24 May 1996, and that, together with the Human Rights Council, it shall constitute an intergovernmental process for the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action;

"40. *Emphasizes* that the basic responsibility for effectively combating racism, racial discrimination, xenophobia and related intolerance lies with States, and to this end stresses that States have the primary responsibility to ensure full and effective implementation of all commitments and recommendations contained in the Durban Declaration and Programme of Action as well as the outcome of the Durban Review Conference and, in this regard, welcomes the steps taken by numerous Governments;

"41. *Calls upon* all States that have not yet elaborated their national action plans on combating racism, racial discrimination, xenophobia and related intolerance to comply with their commitments undertaken at the World Conference of 2001;

"42. *Calls upon* all States to formulate and implement without delay, at the national, regional and international levels, policies and plans of action to combat racism, racial discrimination, xenophobia and related intolerance, including their gender-based manifestations;

"43. *Urges* States to support the activities of existing regional bodies or centres that combat racism, racial discrimination, xenophobia and related intolerance in their respective regions, and recommends the establishment of such bodies in all regions where they do not exist;

"44. *Calls upon* those States that have not yet done so to consider signing and ratifying or acceding to the instruments enumerated in paragraph 78 of the

Durban Programme of Action, including the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families of 1990;

"45. *Emphasizes* the fundamental and complementary role of national human rights institutions, regional bodies or centres and civil society, working jointly with States towards the elimination of all forms of racism and, in particular, towards the achievement of the objectives of the Durban Declaration and Programme of Action;

"46. *Recognizes* the fundamental role of civil society in the fight against racism, racial discrimination, xenophobia and related intolerance, in particular in assisting States to develop regulations and strategies, in taking measures and action against such forms of discrimination and through follow-up implementation;

"47. *Reaffirms its commitment* to eliminating all forms of racism, racial discrimination, xenophobia and other forms of related intolerance against indigenous peoples, and in this regard notes the attention paid to the objectives of combating prejudice and eliminating discrimination and promoting tolerance, understanding and good relations among indigenous peoples and all other segments of society in the United Nations Declaration on the Rights of Indigenous Peoples;

"48. *Acknowledges* that the World Conference of 2001, which was the third world conference against racism, was significantly different from the previous two conferences, as evidenced by the inclusion in its title of two important components relating to contemporary forms of racism, namely, xenophobia and related intolerance;

"49. *Also acknowledges* that the outcomes of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and the Durban Review Conference are on an equal footing with the outcomes of all the major United Nations conferences, summits and special sessions in the human rights and social fields;

"50. *Decides* to convene on 21 September 2011, a high-level meeting of the General Assembly to commemorate the tenth anniversary of the adoption of the Durban Declaration and Programme of Action, at the level of Heads of State and Government;

"51. *Decides also* that the meeting will adopt a short and concise declaration aimed at mobilizing political will for the full and effective implementation of the Durban Declaration and Programme of Action and the outcome of the 2009 Durban Review Conference;

"52. *Invites* Member States, international and regional organizations, civil society, including non-governmental organizations, and other stakeholders to organize and support various high visibility initiatives, aimed at effectively increasing awareness at all levels, to commemorate the tenth anniversary of the adoption of the Durban Declaration and Programme of Action;

"53. *Requests* the Secretary-General to establish a programme of outreach, with the involvement of Member States, United Nations funds and

programmes as well as civil society, including non-governmental organizations, to appropriately commemorate the tenth anniversary of the adoption of the Durban Declaration and Programme of Action;

"54. *Emphasizes* the critical importance of increasing public support for the Durban Declaration and Programme of Action and the involvement of relevant stakeholders in its realization;

"55. *Welcomes* the decision of the Human Rights Council to convene a panel discussion during the high-level segment of its sixteenth session focusing on the full enjoyment of the human rights of people of African descent, to mark the International Year for People of African Descent;

"56. *Calls upon* Member States and the United Nations system to intensify efforts to widely distribute copies of the Durban Declaration and Programme of Action and encourages efforts to ensure its translation and wide dissemination;

"57. *Requests* the Office of the United Nations High Commissioner for Human Rights and the Department of Public Information of the Secretariat to launch a public information campaign for the commemoration of the tenth anniversary of the adoption of the Durban Declaration and Programme of Action, including wide distribution of user-friendly information materials through the United Nations system, inter alia, through United Nations information centres;

"58. *Welcomes* the decision of the Human Rights Council to dedicate part of the programme of work under item 9 at its seventeenth session to a discussion on, inter alia, best practices in the fight against racism, racial discrimination, xenophobia and related intolerance in the context of the tenth anniversary of the Durban Declaration and Programme of Action during the high-level segment of the General Assembly;

"59. *Welcomes also* the adoption of the laudable initiative led by the States members of the Caribbean Community and other Member States for the establishment of a permanent memorial at the United Nations to the victims of slavery and the transatlantic slave trade as a contribution towards the fulfilment of paragraph 101 of the Durban Declaration, expresses its appreciation for contributions made to the voluntary fund established in this regard, and urges other countries to contribute to the fund;

"60. *Expresses its appreciation* for the continuing work of the mechanisms mandated to follow up the World Conference and the Durban Review Conference;

"61. *Welcomes* the conclusions and recommendations of the Intergovernmental Working Group for the Effective Implementation of the Durban Declaration and Programme of Action at its seventh and eighth sessions, and their focus on the protection of children, migration and employment;

"62. *Calls upon* the Human Rights Council to ensure that the conclusions and recommendations of the Intergovernmental Working Group are brought to the attention of the relevant United Nations agencies for adoption and implementation within their respective mandates;

"63. *Invites* the Office of the United Nations High Commissioner for Human Rights, in accordance with paragraphs 136 and 137 of the outcome document of the Durban Review Conference, to establish an inter-agency task force, with the participation of representatives of relevant United Nations bodies and specialized agencies, as part of the continuing efforts to mainstream the effective implementation of the Durban Declaration and Programme of Action and the outcome document of the Durban Review Conference in the whole United Nations system;

"64. *Acknowledges* the centrality of resource mobilization, effective global partnership and international cooperation in the context of paragraphs 157 and 158 of the Durban Programme of Action for the successful realization of commitments undertaken at the World Conference, and to this end emphasizes the importance of the mandate of the group of independent eminent experts on the implementation of the Durban Declaration and Programme of Action, especially in mobilizing the political will necessary for the successful implementation of the Declaration and Programme of Action;

"65. *Requests* the Secretary-General to provide the resources necessary for the effective fulfilment of the mandates of the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action, the Working Group of Experts on People of African Descent, the group of independent eminent experts on the implementation of the Durban Declaration and Programme of Action and the Ad Hoc Committee on the Elaboration of Complementary Standards;

"66. *Requests* the United Nations High Commissioner for Human Rights to undertake necessary steps with a view to enhance the work of the independent eminent experts and to inform the President of the Human Rights Council and the Secretary-General accordingly on such steps;

"67. *Expresses concern* at the increasing incidence of racism in various sporting events, while noting with appreciation the efforts made by some governing bodies of the various sporting codes to combat racism, and in this regard invites all international sporting bodies to promote, through their national, regional and international federations, a world of sport free from racism and racial discrimination;

"68. *Welcomes* the historic and unique dimension of the 2010 International Federation of Association Football World Cup in South Africa, which marked the first time this major sport event was held on the African continent;

"69. *Expresses serious concern* at recent incidents of racism at sporting events targeting, in particular, Africans and people of African descent, and recalling the need to reverse this legacy of racism;

"70. *Expresses its appreciation*, in this context, to the Fédération internationale de football association for the initiative to introduce a visible theme on non-racism in football, and invites the Fédération to continue with this initiative at the 2014 World Cup soccer tournament to be held in Brazil;

"71. *Calls upon* States to take advantage of mass sports events as valuable outreach platforms to mobilize people and convey crucial messages about equality and non-discrimination;

"72. *Acknowledges* the guidance and leadership role of the Human Rights Council, and encourages it to continue overseeing the implementation of the Durban Declaration and Programme of Action and the outcome document of the Durban Review Conference;

"73. *Requests* the Office of the United Nations High Commissioner for Human Rights to continue to provide the Human Rights Council with all the necessary support in order for it to achieve its objectives in this regard;

"V. Follow-up activities

"74. *Strongly recommends* that future meetings of the Human Rights Council focusing on the follow-up to the World Conference and the implementation of the Durban Declaration and Programme of Action be scheduled in a manner that allows broad participation and that avoids overlap with the meetings devoted to the consideration of this item in the General Assembly;

"75. *Requests* the Secretary-General to submit to the General Assembly at its sixty-sixth session a report on the implementation of the present resolution, with recommendations;

"76. *Decides* to remain seized of this important matter at its sixty-sixth session under the item entitled 'Elimination of racism, racial discrimination, xenophobia and related intolerance'."

21. At the 52nd meeting, on 23 November, the representative of Yemen made oral revisions to the text of the draft resolution (see A/C.3/65/SR.52).

22. At the same meeting, the Secretary made a statement in connection with the programme budget implications of the draft resolution.

23. A statement was made by the representative of Belgium on behalf of the European Union (see A/C.3/65/SR.52).

24. Also at its 52nd meeting, the Committee adopted the draft resolution, as orally revised, by a recorded vote of 121 to 19, with 35 abstentions (see para. 27, draft resolution III). The voting was as follows:

In favour:

Afghanistan, Algeria, Angola, Antigua and Barbuda, Argentina, Azerbaijan, Bahrain, Bangladesh, Belarus, Belize, Benin, Bhutan, Bolivia (Plurinational State of), Botswana, Brazil, Brunei Darussalam, Burkina Faso, Cambodia, Cameroon, Cape Verde, Chile, China, Colombia, Comoros, Congo, Costa Rica, Côte d'Ivoire, Cuba, Democratic People's Republic of Korea, Democratic Republic of the Congo, Djibouti, Dominican Republic, Ecuador, Egypt, El Salvador, Eritrea, Ethiopia, Fiji, Gabon, Gambia, Ghana, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, India, Indonesia, Iran (Islamic Republic of), Iraq, Jamaica, Jordan, Kazakhstan, Kenya, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Lebanon, Liberia, Libyan Arab Jamahiriya, Madagascar, Malawi, Malaysia, Maldives, Mali, Mauritania,

Mauritius, Mexico, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nepal, Nicaragua, Niger, Nigeria, Oman, Pakistan, Panama, Paraguay, Peru, Philippines, Qatar, Russian Federation, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Saudi Arabia, Senegal, Sierra Leone, Singapore, Somalia, South Africa, Sri Lanka, Sudan, Suriname, Swaziland, Syrian Arab Republic, Tajikistan, Thailand, Timor-Leste, Togo, Trinidad and Tobago, Tunisia, Turkey, Turkmenistan, Tuvalu, Uganda, United Arab Emirates, United Republic of Tanzania, Uruguay, Uzbekistan, Venezuela (Bolivarian Republic of), Viet Nam, Yemen, Zambia, Zimbabwe.

Against:

Australia, Bulgaria, Canada, Czech Republic, Denmark, Estonia, Germany, Israel, Italy, Latvia, Lithuania, Marshall Islands, Netherlands, Poland, Romania, San Marino, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining:

Albania, Andorra, Armenia, Austria, Belgium, Bosnia and Herzegovina, Croatia, Cyprus, Finland, France, Georgia, Greece, Hungary, Iceland, Ireland, Japan, Liechtenstein, Luxembourg, Malta, Monaco, Montenegro, New Zealand, Norway, Papua New Guinea, Portugal, Republic of Korea, Republic of Moldova, Samoa, Serbia, Slovakia, Slovenia, Spain, Switzerland, the former Yugoslav Republic of Macedonia, Ukraine.

25. Before the vote, statements were made by the representatives of Switzerland (also on behalf of Iceland, Liechtenstein, New Zealand and Norway), Israel, the United States of America and the Netherlands; after the vote, a statement was made by the representative of South Africa (see A/C.3/65/SR.52).

D. Draft decision proposed by the Chair

26. At its 52nd meeting, on 23 November, on the proposal of the Chair, the Committee decided to recommend to the General Assembly that it take note of the report of the Secretary-General on global efforts for the total elimination of racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action (A/65/377) and the interim report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (A/65/295) (see para. 28).

III. Recommendations of the Third Committee

27. The Third Committee recommends to the General Assembly the adoption of the following draft resolutions:

Draft resolution I

Inadmissibility of certain practices that contribute to fuelling contemporary forms of racism, racial discrimination, xenophobia and related intolerance

The General Assembly,

Guided by the Charter of the United Nations, the Universal Declaration of Human Rights,¹ the International Covenant on Civil and Political Rights,² the International Convention on the Elimination of All Forms of Racial Discrimination³ and other relevant human rights instruments,

Recalling the provisions of Commission on Human Rights resolutions 2004/16 of 16 April 2004⁴ and 2005/5 of 14 April 2005⁵ and relevant Human Rights Council resolutions, in particular resolution 7/34 of 28 March 2008,⁶ as well as General Assembly resolutions 60/143 of 16 December 2005, 61/147 of 19 December 2006, 62/142 of 18 December 2007, 63/162 of 18 December 2008 and 64/147 of 18 December 2009 on this issue and resolutions 61/149 of 19 December 2006, 62/220 of 22 December 2007, 63/242 of 24 December 2008 and 64/148 of 18 December 2009, entitled "Global efforts for the total elimination of racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow up to the Durban Declaration and Programme of Action",

Recalling also the Charter of the Nuremberg Tribunal and the Judgement of the Tribunal, which recognized, inter alia, the SS organization and all its integral parts, including the Waffen SS, as criminal and declared it responsible for many war crimes and crimes against humanity,

Recalling further the relevant provisions of the Durban Declaration and Programme of Action adopted by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance on 8 September 2001,⁷ in particular paragraph 2 of the Declaration and paragraph 86 of the Programme of Action, as well as the relevant provisions of the outcome document of the Durban Review Conference, of 24 April 2009,⁸ in particular paragraphs 11 and 54,

¹ Resolution 217 A (III).

² See resolution 2200 A (XXI), annex.

³ United Nations, *Treaty Series*, vol. 660, No. 9464.

⁴ See *Official Records of the Economic and Social Council, 2004, Supplement No. 3 (E/2004/23)*, chap. II, sect. A.

⁵ *Ibid.*, 2005, *Supplement No. 3* and corrigenda (E/2005/23 and Corr.1 and 2), chap. II, sect. A.

⁶ See *Official Records of the General Assembly, Sixty-third Session, Supplement No. 53 (A/63/53)*, chap. II.

⁷ See A/CONF.189/12 and Corr.1, chap. I.

⁸ See A/CONF.211/8, chap. I.

Alarmed, in this regard, at the spread in many parts of the world of various extremist political parties, movements and groups, including neo-Nazis and skinhead groups, as well as similar extremist ideological movements,

Recalling that in 2010 the international community celebrated the sixty-fifth anniversary of victory in the Second World War, and welcoming in this regard the special solemn meeting of the sixty-fourth session of the General Assembly, held on 6 May 2010,

Recalling also that the sixty-fifth session of the General Assembly coincides with the sixty-fifth anniversary of the establishment of the Nuremberg Tribunal and the adoption of its Charter,

1. *Reaffirms* the relevant provisions of the Durban Declaration⁷ and of the outcome document of the Durban Review Conference,⁸ in which States condemned the persistence and resurgence of neo-Nazism, neo-Fascism and violent nationalist ideologies based on racial and national prejudice and stated that those phenomena could never be justified in any instance or in any circumstances;

2. *Takes note with appreciation* of the report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, prepared in accordance with the request contained in General Assembly resolution 64/147;⁹

3. *Expresses its appreciation* to the United Nations High Commissioner for Human Rights for her commitment to maintaining the fight against racism as one of the priority activities of her Office;

4. *Expresses deep concern* about the glorification of the Nazi movement and former members of the Waffen SS organization, including by erecting monuments and memorials and holding public demonstrations in the name of the glorification of the Nazi past, the Nazi movement and neo-Nazism, as well as by declaring or attempting to declare such members and those who fought against the anti-Hitler coalition and collaborated with the Nazi movement participants in national liberation movements;

5. *Expresses concern* at recurring attempts to desecrate or demolish monuments erected in remembrance of those who fought against Nazism during the Second World War, as well as to unlawfully exhume or remove the remains of such persons, and in this regard urges States to fully comply with their relevant obligations, inter alia, under article 34 of Additional Protocol I to the Geneva Conventions of 1949;¹⁰

6. *Notes with concern* the increase in the number of racist incidents in several countries and the rise of skinhead groups, which have been responsible for many of these incidents, as well as the resurgence of racist and xenophobic violence targeting members of ethnic, religious or cultural communities and national minorities, as observed by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance in his latest report;

7. *Reaffirms* that such acts may be qualified to fall within the scope of activities described in article 4 of the International Convention on the Elimination of

⁹ See A/65/323.

¹⁰ United Nations, *Treaty Series*, vol. 1125, No. 17512.

All Forms of Racial Discrimination³ and that they may represent a clear and manifest abuse of the rights to freedom of peaceful assembly and of association as well as the rights to freedom of opinion and expression within the meaning of those rights as guaranteed by the Universal Declaration of Human Rights,¹ the International Covenant on Civil and Political Rights² and the International Convention on the Elimination of All Forms of Racial Discrimination;

8. *Stresses* that the practices described above do injustice to the memory of the countless victims of crimes against humanity committed in the Second World War, in particular those committed by the SS organization and those who fought against the anti-Hitler coalition and collaborated with the Nazi movement, and poison the minds of young people, and that failure by States to effectively address such practices is incompatible with the obligations of States Members of the United Nations under its Charter and is incompatible with the goals and principles of the Organization;

9. *Also stresses* that such practices fuel contemporary forms of racism, racial discrimination, xenophobia and related intolerance and contribute to the spread and multiplication of various extremist political parties, movements and groups, including neo-Nazis and skinhead groups, and in this regard calls for increased political and legal vigilance;

10. *Emphasizes* the need to take the measures necessary to put an end to the practices described above, and calls upon States to take more effective measures in accordance with international human rights law to combat those phenomena and the extremist movements, which pose a real threat to democratic values;

11. *Recalls* the recommendation of the Special Rapporteur, made in his latest report to the General Assembly, to introduce into domestic criminal law a provision according to which committing an offence with racist or xenophobic motivations or aims constitutes an aggravating circumstance allowing for enhanced penalties, and encourages those States whose legislation does not contain such provisions to consider that recommendation;

12. *Reaffirms*, in this regard, the particular importance of all forms of education, including human rights education, as a complement to legislative measures, as outlined by the Special Rapporteur;

13. *Emphasizes* the recommendation of the Special Rapporteur regarding the importance of history classes in teaching the dramatic events and human suffering that resulted from the ideologies of Nazism and Fascism;

14. *Stresses* the importance of other positive measures and initiatives aimed at bringing communities together and providing them with space for genuine dialogue, such as round tables, working groups and seminars, including training seminars for State agents and media professionals, as well as awareness-raising activities, especially those initiated by civil society representatives which require continued State support;

15. *Underlines* the potentially positive role that relevant United Nations entities and programmes, in particular the United Nations Educational, Scientific and Cultural Organization, can play in the aforementioned areas;

16. *Reaffirms* that, according to article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination, States parties to that instrument are, inter alia, under the obligation:

(a) To condemn all propaganda and all organizations that are based on ideas of racial superiority or that attempt to justify or promote racial hatred and discrimination in any form;

(b) To undertake to adopt immediate and positive measures designed to eradicate all incitement to, or acts of, such discrimination, with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of the Convention;

(c) To declare as an offence punishable by law all dissemination of ideas based on racial superiority or hatred, and incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin, and also the provision of any assistance to racist activities, including the financing thereof;

(d) To declare illegal and prohibit organizations and organized and all other propaganda activities that promote and incite racial discrimination, and to recognize participation in such organizations or activities as an offence punishable by law;

(e) To prohibit public authorities or public institutions, national or local, from promoting or inciting racial discrimination;

17. *Also reaffirms* that, as underlined in paragraph 13 of the outcome document of the Durban Review Conference, any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence should be prohibited by law, as should the dissemination of ideas based on racial superiority, hatred, acts of violence or incitement to such acts, and that these prohibitions are consistent with freedom of opinion and expression;

18. *Expresses concern* about the use of the Internet to propagate racism, racial hatred, xenophobia, racial discrimination and related intolerance, as outlined in the report of the Special Rapporteur to the General Assembly;

19. *Underlines*, at the same time, the positive role that the exercise of the right to freedom of opinion and expression, as well as full respect for the freedom to seek, receive and impart information, including through the Internet, can play in combating racism, racial discrimination, xenophobia and related intolerance;

20. *Encourages* those States that have made reservations to article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination to give serious consideration to withdrawing such reservations as a matter of priority, as stressed by the Special Rapporteur in his latest report to the General Assembly;

21. *Encourages* States parties to the International Convention on the Elimination of All Forms of Racial Discrimination to ensure that their legislation incorporates the provisions of the Convention, including those of its article 4;

22. *Recalls* the request of the Commission on Human Rights, in its resolution 2005/5,⁵ that the Special Rapporteur continue to reflect on this issue, make relevant recommendations in his future reports and seek and take into account in this regard the views of Governments and non-governmental organizations;

23. *Requests* the Special Rapporteur to prepare, for submission to the General Assembly at its sixty-sixth session and to the Human Rights Council, reports on the implementation of the present resolution based on the views collected in accordance with the request of the Commission on Human Rights, as recalled by the Assembly in paragraph 22 above;

24. *Expresses its appreciation* to those Governments that have provided information to the Special Rapporteur in the course of the preparation of his report to the General Assembly;

25. *Also expresses its appreciation* to representatives of civil society for their contribution to the fight against racism, racial discrimination, xenophobia and related intolerance;

26. *Stresses* that such information is important for the sharing of experiences and best practices in the fight against extremist political parties, movements and groups, including neo-Nazis and skinhead groups, as well as extremist ideological movements;

27. *Encourages* Governments and non-governmental organizations to cooperate fully with the Special Rapporteur in the exercise of the tasks outlined in paragraph 22 above;

28. *Also encourages* Governments, non-governmental organizations and relevant actors to disseminate, as widely as possible, information regarding the contents of and the principles outlined in the present resolution, including through, but not exclusively through, the media;

29. *Decides* to remain seized of the issue.

Draft resolution II

International Convention on the Elimination of All Forms of Racial Discrimination

The General Assembly,

Recalling its previous resolutions on the International Convention on the Elimination of All Forms of Racial Discrimination,¹ most recently resolution 63/243 of 24 December 2008,

Bearing in mind the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights on 25 June 1993,² in particular section II.B of the Declaration, relating to equality, dignity and tolerance,

Reiterating the need to intensify the struggle to eliminate all forms of racism, racial discrimination, xenophobia and related intolerance throughout the world,

Reiterating also the importance of the Convention, which is one of the most widely accepted human rights instruments adopted under the auspices of the United Nations,

Reaffirming that universal adherence to and full implementation of the Convention are of paramount importance for promoting equality and non-discrimination in the world, as stated in the Durban Declaration and Programme of Action, adopted by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance on 8 September 2001,³

Mindful of the importance of the contributions of the Committee on the Elimination of Racial Discrimination to the effective implementation of the Convention and to the efforts of the United Nations to combat racism, racial discrimination, xenophobia and related intolerance,

Emphasizing the obligation of all States parties to the Convention to take legislative, judicial and other measures to secure full implementation of the provisions of the Convention,

Recalling its resolution 47/111 of 16 December 1992, in which it welcomed the decision, taken on 15 January 1992 by the Fourteenth Meeting of States Parties to the International Convention on the Elimination of All Forms of Racial Discrimination, to amend paragraph 6 of article 8 of the Convention and to add a new paragraph, as paragraph 7 of article 8, with a view to providing for the financing of the Committee from the regular budget of the United Nations,⁴ and reiterating its deep concern that the amendment to the Convention has not yet entered into force,

Stressing the importance of enabling the Committee to function smoothly and to have all necessary facilities for the effective performance of its functions under the Convention,

¹ United Nations, *Treaty Series*, vol. 660, No. 9464.

² A/CONF.157/24 (Part I), chap. III.

³ See A/CONF.189/12 and Corr.1, chap. I.

⁴ See CERD/SP/45, annex.

Recalling its resolution 63/243, in which the General Assembly decided to authorize the Committee to meet for an additional week per session, as a temporary measure, with effect from August 2009, until 2011, and noting that the additional meeting time has allowed the Committee to reduce the backlog of reports pending consideration,

Noting the report of the Secretary-General on the evaluation of the use of additional meeting time by the human rights treaty bodies,⁵ the increasing workload of the treaty bodies and the increasing number of requests from them for more meeting time,

I

Reports of the Committee on the Elimination of Racial Discrimination

1. *Takes note* of the reports of the Committee on the Elimination of Racial Discrimination on its seventy-fourth and seventy-fifth⁶ and its seventy-sixth and seventy-seventh sessions;⁷

2. *Commends* the Committee for its contributions to the effective implementation of the International Convention on the Elimination of All Forms of Racial Discrimination,¹ especially through the examination of reports under article 9 of the Convention, action on communications under article 14 of the Convention and thematic discussions, which contribute to the prevention and elimination of racism, racial discrimination, xenophobia and related intolerance;

3. *Calls upon* States parties to fulfil their obligation, under article 9, paragraph 1, of the Convention, to submit their periodic reports on measures taken to implement the Convention in due time;

4. *Expresses its concern* at the fact that a great number of reports, in particular initial reports, are overdue and continue to be overdue, which constitutes an obstacle to the full implementation of the Convention;

5. *Encourages* States parties to the Convention whose reports are seriously overdue to avail themselves of the advisory services and technical assistance that the Office of the United Nations High Commissioner for Human Rights can provide, upon their request, for the preparation of the reports;

6. *Reiterates* that States parties, in line with article 8 of the Convention, should take into account, in their nomination of members to the Committee on the Elimination of Racial Discrimination, that the Committee shall be composed of persons of high moral standing and acknowledged impartiality, who shall serve in their personal capacity, and that consideration shall be given to equitable geographical distribution and to the representation of the different forms of civilization as well as of the principal legal systems, and encourages States parties to give due regard to the nomination of persons having legal experience, as well as recognized competence in the field of human rights, and to the equal representation of women and men;

7. *Encourages* the Committee to continue to cooperate and exchange information with United Nations bodies and mechanisms, in particular the Special

⁵ A/65/317.

⁶ Official Records of the General Assembly, Sixty-fourth Session, Supplement No. 18 (A/64/18).

⁷ Ibid., Sixty-fifth Session, Supplement No. 18 (A/65/18).

Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and other relevant mechanisms of the Human Rights Council, as well as with intergovernmental and non-governmental organizations;

8. *Encourages* States parties to the Convention to continue to include a gender perspective in their reports to the Committee on the Elimination of Racial Discrimination, and invites the Committee to take into account a gender perspective in the implementation of its mandate;

9. *Also encourages* States parties to the Convention to include information on measures to prevent and combat racism, racial discrimination, xenophobia and related intolerance in their national reports to the universal periodic review mechanism of the Human Rights Council, and strongly encourages States parties to recognize those recommendations of the universal periodic review mechanism that originate from treaty body recommendations and treat them appropriately;

10. *Notes with appreciation* the engagement of the Committee in the follow-up to the Durban Declaration and Programme of Action;³

11. *Expresses its appreciation* for the efforts made so far by the Committee to improve the efficiency of its working methods, including with a view to further harmonizing the working methods of the treaty bodies, and encourages the Committee to continue its activities in this regard;

12. *Welcomes*, in this regard, measures taken by the Committee to follow up on its concluding observations and recommendations, such as the appointment of a follow-up coordinator⁸ and the adoption of the guidelines on follow-up;⁹

13. *Encourages* the continued participation of members of the Committee in the annual inter-committee meetings and meetings of chairpersons of the human rights treaty bodies, especially with a view to a more coordinated approach to the activities of the treaty body system and standardized reporting as well as to solving the problem of the backlog of reports of States parties in an effective manner, including by identifying efficiencies and maximizing the use of their resources as well as learning and sharing best practices and experiences in this regard;

14. *Notes* the persistent backlog of reports of States parties awaiting consideration, which prevents the Committee from considering the periodic reports of States parties in a timely manner and without undue delay, as well as the request of the Committee that the General Assembly approve one additional week of meeting time per session, starting in 2012;

15. *Decides* to extend the authorization to the Committee to meet for an additional week per session, as a temporary measure, in 2012, in order to address the backlog of reports of States parties and individual complaints awaiting consideration;

16. *Requests* the Secretary-General to submit to the General Assembly at its sixty-sixth session concrete and tailored proposals on the human rights treaty bodies, including the Committee on the Elimination of Racial Discrimination, building on the work of the Secretary-General pursuant to Human Rights Council

⁸ Ibid., Sixtieth Session, Supplement No. 18 (A/60/18), annex IV.

⁹ Ibid., Sixty-first Session, Supplement No. 18 (A/61/18), annex VI.

resolution 9/8¹⁰ of 24 September 2008 and of the treaty bodies in this regard, to improve their effectiveness and to identify efficiencies in their working methods and resource requirements in order better to manage their workloads, bearing in mind budgetary constraints and taking account of the varying burdens on each treaty body;

II

Financial situation of the Committee on the Elimination of Racial Discrimination

17. *Takes note* of the report of the Secretary-General on the financial situation of the Committee on the Elimination of Racial Discrimination;¹¹

18. *Expresses its profound concern* at the fact that a number of States parties to the International Convention on the Elimination of All Forms of Racial Discrimination have still not fulfilled their financial obligations, as shown in the report of the Secretary-General, and strongly appeals to all States parties that are in arrears to fulfil their outstanding financial obligations under article 8, paragraph 6, of the Convention;

19. *Strongly urges* States parties to the Convention to accelerate their domestic ratification procedures with regard to the amendment to the Convention concerning the financing of the Committee and to notify the Secretary-General expeditiously in writing of their agreement to the amendment, as decided upon at the Fourteenth Meeting of States Parties to the International Convention on the Elimination of All Forms of Racial Discrimination on 15 January 1992,⁴ endorsed by the General Assembly in its resolution 47/111 and further reiterated at the Sixteenth Meeting of States Parties on 16 January 1996;

20. *Requests* the Secretary-General to continue to ensure adequate financial arrangements and to provide the necessary support, including an adequate level of Secretariat assistance, in order to ensure the functioning of the Committee and to enable it to cope with its increasing amount of work;

21. *Also requests* the Secretary-General to invite those States parties to the Convention that are in arrears to pay the amounts in arrears, and to report thereon to the General Assembly at its sixty-seventh session;

III

Status of the International Convention on the Elimination of All Forms of Racial Discrimination

22. *Recalls* the forty-fifth anniversary of the adoption of the Convention on the Elimination of All Forms of Racial Discrimination, and takes this opportunity to reiterate the call for the universal ratification and effective implementation of the Convention by all States parties to eliminate all forms of racial discrimination;

23. *Takes note* of the report of the Secretary-General on the status of the International Convention on the Elimination of All Forms of Racial Discrimination;¹²

¹⁰ See *Official Records of the General Assembly, Sixty-third Session, Supplement No. 53A* (A/63/53/Add.1), chap. I.

¹¹ A/65/312.

¹² A/65/292.

24. *Expresses its satisfaction* at the number of States that have ratified or acceded to the Convention, which now stands at one hundred and seventy-three;

25. *Urges* States parties to comply fully with their obligations under the Convention and to take into consideration the concluding observations and general recommendations of the Committee on the Elimination of Racial Discrimination;

26. *Reaffirms its conviction* that ratification of or accession to the Convention on a universal basis and the implementation of its provisions are necessary for the effectiveness of the fight against racism, racial discrimination, xenophobia and related intolerance and for the implementation of the commitments undertaken under the Durban Declaration and Programme of Action, and expresses its disappointment that universal ratification of the Convention was not achieved by the targeted date of 2005;

27. *Urges* States to limit the extent of any reservation they lodge to the Convention and to formulate any reservation as precisely and narrowly as possible in order to ensure that no reservation is incompatible with the object and purpose of the Convention, to review their reservations on a regular basis with a view to withdrawing them, and to withdraw reservations that are contrary to the object and purpose of the Convention;

28. *Notes* that the number of States parties to the Convention that have made the declaration provided for in article 14 of the Convention now stands at fifty-four, and requests States parties that have not yet done so to consider making that declaration;

29. *Invites* the Chairperson of the Committee on the Elimination of Racial Discrimination to present an oral report on the work of the Committee and to engage in an interactive dialogue with the General Assembly at its sixty-seventh session under the item entitled "Elimination of racism, racial discrimination, xenophobia and related intolerance";

30. *Decides* to consider, at its sixty-seventh session, under the item entitled "Elimination of racism, racial discrimination, xenophobia and related intolerance", the reports of the Committee on its seventy-eighth and seventy-ninth and its eightieth and eighty-first sessions, the report of the Secretary-General on the financial situation of the Committee and the report of the Secretary-General on the status of the Convention.

Draft resolution III
Global efforts for the total elimination of racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action

The General Assembly,

Recalling its resolution 52/111 of 12 December 1997, in which it decided to convene the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, and its resolutions 56/266 of 27 March 2002, 57/195 of 18 December 2002, 58/160 of 22 December 2003, 59/177 of 20 December 2004 and 60/144 of 16 December 2005, which guided the comprehensive follow-up to and effective implementation of the World Conference, and in this regard underlining the importance of their full and effective implementation,

Recalling its resolution 64/148 of 26 March 2010, in which it, inter alia, called for the 10-year commemoration of the Durban Declaration and Programme of Action adopted by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance,¹ which represents an important opportunity for the international community to reaffirm its commitment to the eradication of racism, racial discrimination, xenophobia and related intolerance, including by mobilizing political will at the national, regional and international levels, with a view to achieving concrete results,

Taking note of Human Rights Council decision 3/103 of 8 December 2006,² by which, heeding the decision and instruction of the World Conference, the Council established the Ad Hoc Committee of the Human Rights Council on the Elaboration of Complementary Standards, and encouraging the Committee to continue making progress in the discharge of its mandate,

Bearing in mind the responsibility and obligations of the Human Rights Council emanating from the outcome of the Durban Review Conference,³

Reiterating that all human beings are born free and equal in dignity and rights and have the potential to contribute constructively to the development and well-being of their societies, and that any doctrine of racial superiority is scientifically false, morally condemnable, socially unjust and dangerous and must be rejected, together with theories that attempt to determine the existence of separate human races,

Convinced that racism, racial discrimination, xenophobia and related intolerance manifest themselves in a differentiated manner for women and girls and may be among the factors leading to a deterioration in their living conditions, poverty, violence, multiple forms of discrimination and the limitation or denial of their human rights, and recognizing the need to integrate a gender perspective into relevant policies, strategies and programmes of action against racism, racial

¹ See A/CONF.189/12 and Corr.1, chap. I.

² See *Official Records of the General Assembly, Sixty-second Session, Supplement No. 53* (A/62/53), chap. II, sect. B.

³ See A/CONF.211/8.

discrimination, xenophobia and related intolerance in order to address multiple forms of discrimination,

Underlining the primacy of political will, international cooperation and adequate funding at the national, regional and international levels needed to address all forms and manifestations of racism, racial discrimination, xenophobia and related intolerance,

Alarmed at the increase in racist violence and xenophobic ideas in many parts of the world, in political circles, in the sphere of public opinion and in society at large as a result, inter alia, of the resurgent activities of associations established on the basis of racist and xenophobic platforms and charters, and the persistent use of those platforms and charters to promote or incite racist ideologies,

Underlining the importance of urgently eliminating continuing and violent trends involving racism and racial discrimination, and conscious that any form of impunity for crimes motivated by racist and xenophobic attitudes plays a role in weakening the rule of law and democracy, tends to encourage the recurrence of such crimes and requires resolute action and cooperation for its eradication,

Acknowledging the centrality of resource mobilization, effective global partnership and international cooperation in the context of paragraphs 157 and 158 of the Durban Programme of Action¹ for the successful realization of commitments undertaken at the World Conference,

Expressing grave concern at the lack of progress made in the implementation of the Durban Declaration and Programme of Action, in particular key paragraphs 157 to 159 of the Programme of Action,¹

Welcoming the continued commitment of the United Nations High Commissioner for Human Rights to profiling and increasing the visibility of the struggle against racism, racial discrimination, xenophobia and related intolerance, and recognizing the need for the High Commissioner to make this a cross-cutting issue in the activities and programmes of her Office,

Welcoming the work of the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action at its seventh and eighth sessions, held from 5 to 16 October 2009 and from 11 to 22 October 2010, respectively, in particular the recommendation on the commemoration of the tenth anniversary of the adoption of the Durban Declaration and Programme of Action, and looking forward to the consideration by the Human Rights Council of the conclusions and recommendations of the Working Group,

Recognizing the potential of sport as a universal language contributing to the education of people on the values of diversity, tolerance and fairness and as a means to combat racism, racial discrimination, xenophobia and related intolerance,

Welcoming the hosting of the 2010 and 2014 International Federation of Association Football World Cups in South Africa and Brazil, respectively, and stressing the importance of making continuing use of those events to promote understanding, tolerance and peace, and to promote and strengthen efforts in the fight against racism, racial discrimination, xenophobia and related intolerance,

I

General principles

1. *Acknowledges* that no derogation from the prohibition of racial discrimination, genocide, the crime of apartheid or slavery is permitted, as defined in the obligations under the relevant human rights instruments;
2. *Expresses its profound concern about and its unequivocal condemnation* of all forms of racism and racial discrimination, including related acts of racially motivated violence, xenophobia and intolerance, as well as propaganda activities and organizations that attempt to justify or promote racism, racial discrimination, xenophobia and related intolerance in any form;
3. *Re-emphasizes* that international cooperation is a key principle in achieving the goal of the total elimination of racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action;¹
4. *Expresses deep concern* at inadequate responses to emerging and resurgent forms of racism, racial discrimination, xenophobia and related intolerance, and urges States to adopt measures to address those scourges vigorously with a view to preventing their practice and protecting victims;
5. *Underlines* the imperative need to address all the contemporary forms and manifestations of racism, racial discrimination, xenophobia and related intolerance, which include, inter alia, incitement to such hatred, racial profiling and the propagation of racist and xenophobic acts through cyberspace, with a view to maximizing protection for victims, providing legal remedies and combating impunity;
6. *Stresses* that States and international organizations have a responsibility to ensure that measures taken in the struggle against terrorism do not discriminate in purpose or effect on grounds of race, colour, descent or national or ethnic origin, and urges all States to rescind or refrain from all forms of racial profiling;
7. *Recognizes* that States should implement and enforce appropriate and effective legislative, judicial, regulatory and administrative measures to prevent and protect against acts of racism, racial discrimination, xenophobia and related intolerance, thereby contributing to the prevention of human rights violations;
8. *Also recognizes* that racism, racial discrimination, xenophobia and related intolerance occur on the grounds of race, colour, descent or national or ethnic origin and that victims can suffer multiple or aggravated forms of discrimination based on other related grounds, such as sex, language, religion, political or other opinion, social origin, property and birth;
9. *Reaffirms* that any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law;
10. *Emphasizes* that it is the responsibility of States to adopt effective measures to combat criminal acts motivated by racism, racial discrimination, xenophobia and related intolerance, including measures to ensure that such motivations are considered an aggravating factor for the purposes of sentencing, to prevent those crimes from going unpunished and to ensure the rule of law;

11. *Urges* all States to review and, where necessary, revise their immigration laws, policies and practices so that they are free of racial discrimination and compatible with their obligations under international human rights instruments;

12. *Calls upon* all States, in accordance with the commitments undertaken in paragraph 147 of the Durban Programme of Action,¹ to take all measures necessary to combat incitement to violence motivated by racial hatred, including through the misuse of print, audio-visual and electronic media and new communications technologies, and, in collaboration with service providers, to promote the use of such technologies, including the Internet, to contribute to the fight against racism, in conformity with international standards of freedom of expression and taking all measures necessary to guarantee that right;

13. *Encourages* all States to include in their educational curricula and social programmes at all levels, as appropriate, knowledge of and tolerance and respect for all cultures, civilizations, religions, peoples and countries, as well as information on the follow-up to and implementation of the Durban Declaration and Programme of Action;

14. *Stresses* the responsibility of States to mainstream a gender perspective into the design and development of prevention, education and protection measures aimed at the eradication of racism, racial discrimination, xenophobia and related intolerance at all levels, to ensure that they effectively target the distinct situations of women and men;

II

International Convention on the Elimination of All Forms of Racial Discrimination

15. *Reaffirms* that universal adherence to and full implementation of the International Convention on the Elimination of All Forms of Racial Discrimination⁴ are of paramount importance for the fight against racism, racial discrimination, xenophobia and related intolerance, and for the promotion of equality and non-discrimination in the world;

16. *Expresses grave concern* that universal ratification of the Convention has not yet been reached, despite commitments under the Durban Declaration and Programme of Action, and calls upon those States that have not yet done so to accede to the Convention as a matter of urgency;

17. *Urges*, in the above context, the Office of the United Nations High Commissioner for Human Rights to maintain on its website and issue regular updates on a list of countries that have not yet ratified the Convention and to encourage those countries to ratify it at the earliest possible time;

18. *Expresses concern* at the serious delays in the submission of overdue reports to the Committee on the Elimination of Racial Discrimination, which impede the effectiveness of the Committee, makes a strong appeal to all States parties to the Convention to comply with their treaty obligations, and reaffirms the importance of the provision of technical assistance to requesting countries in the preparation of their reports to the Committee;

⁴ United Nations, *Treaties Series*, vol. 660, No. 9464.

19. *Invites* States parties to the Convention to ratify the amendment to article 8 of the Convention on the financing of the Committee, and calls for adequate additional resources from the regular budget of the United Nations to enable the Committee to discharge its mandate fully;

20. *Urges* all States parties to the Convention to intensify their efforts to implement the obligations that they have accepted under article 4 of the Convention, with due regard to the principles of the Universal Declaration of Human Rights⁵ and article 5 of the Convention;

21. *Recalls* that the Committee holds that the prohibition of the dissemination of ideas based on racial superiority or racial hatred is compatible with the right to freedom of opinion and expression as outlined in article 19 of the Universal Declaration of Human Rights and in article 5 of the Convention;

22. *Welcomes* the emphasis placed by the Committee on the importance of follow-up to the World Conference and the measures recommended to strengthen the implementation of the Convention as well as the functioning of the Committee;

23. *Calls upon* Member States to do their utmost to ensure that their responses to the current financial and economic crisis do not lead to increased poverty and underdevelopment and, potentially, a rise in racism, racial discrimination, xenophobia and related intolerance against foreigners, immigrants and persons belonging to national, ethnic, religious and linguistic minorities all over the world;

III

Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, and follow-up to his visits

24. *Takes note* of the report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance⁶ and the recommendations contained therein;

25. *Also takes note* of the work done by the Special Rapporteur, and welcomes Human Rights Council resolution 7/34 of 28 March 2008,⁷ by which the Council decided to extend the mandate of the Special Rapporteur for a period of three years;

26. *Further takes note* of the reports of the Special Rapporteur,⁸ and encourages Member States and other relevant stakeholders to consider implementing the recommendations contained therein;

27. *Reiterates its call* to all Member States, intergovernmental organizations, relevant organizations of the United Nations system and non-governmental organizations to cooperate fully with the Special Rapporteur, and calls upon States to consider responding favourably to his requests for visits so as to enable him to fulfil his mandate fully and effectively;

⁵ Resolution 217 A (III).

⁶ A/65/295.

⁷ See *Official Records of the General Assembly, Sixty-third Session, Supplement No. 53 (A/63/53)*, chap. II.

⁸ A/65/295 and A/65/323.

28. *Recognizes with deep concern* the increase in anti-Semitism, Christianophobia and Islamophobia in various parts of the world, as well as the emergence of racial and violent movements based on racism and discriminatory ideas directed against Arab, Christian, Jewish and Muslim communities, as well as all religious communities, communities of people of African descent, communities of people of Asian descent, communities of indigenous people and other communities;

29. *Encourages* closer collaboration between the Special Rapporteur and the Office of the United Nations High Commissioner for Human Rights, in particular the Anti-Discrimination Unit;

30. *Requests* the High Commissioner to continue to provide States, at their request, with advisory services and technical assistance to enable them to implement fully the recommendations of the Special Rapporteur;

31. *Requests* the Secretary-General to provide the Special Rapporteur with all the human and financial assistance necessary to carry out his mandate efficiently, effectively and expeditiously and to enable him to submit a report to the General Assembly at its sixty-sixth session;

32. *Requests* the Special Rapporteur, within his mandate, to continue giving particular attention to the negative impact of racism, racial discrimination, xenophobia and related intolerance on the full enjoyment of civil, cultural, economic, political and social rights;

33. *Invites* Member States to demonstrate greater commitment to fighting racism in sport by conducting educational and awareness-raising activities and by strongly condemning the perpetrators of racist incidents, in cooperation with national and international sports organizations;

34. *Recommends* that States engage in broad efforts to eliminate racism, racial discrimination, xenophobia and related intolerance and to promote cultural, ethnic and religious diversity, and in that regard emphasizes the crucial role of education, including human rights education, training and learning, and a variety of awareness-raising measures which contribute to the creation of tolerant societies in which mutual understanding may be ensured;

35. *Recommends* that all States give due attention to and closely monitor the way in which the concept of national identity is debated within their societies, with a view to preventing it from being used as a tool to create artificial differences among some groups of the population;

36. *Expresses concern* at recent deeply marked tendencies within numerous societies to characterize migration as a problem and a threat to social cohesion and, in this context, notes the numerous human rights challenges in combating racism, racial discrimination, xenophobia and related intolerance;

37. *Recommends* that States conduct human rights training, including on the challenges of racism, racial discrimination, xenophobia and related intolerance faced by migrants, refugees and asylum-seekers, for law enforcement officials, especially immigration officials and border police, so that they may act in conformity with international human rights law;

38. *Also recommends* that States collect disaggregated data in order to design appropriate anti-racial-discrimination legislation and policies and monitor their effectiveness, while abiding by some key principles, including self-identification, the right to privacy, and guaranteeing the consent of those concerned, in the design and implementation of the exercise;

IV

Outcomes of the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and the 2009 Durban Review Conference

39. *Reaffirms* that the General Assembly is the highest intergovernmental mechanism for the formulation and appraisal of policy on matters relating to the economic, social and related fields, in accordance with Assembly resolution 50/227 of 24 May 1996, and that, together with the Human Rights Council, it shall constitute an intergovernmental process for the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action;

40. *Emphasizes* that the basic responsibility for effectively combating racism, racial discrimination, xenophobia and related intolerance lies with States, and to this end stresses that States have the primary responsibility to ensure the full and effective implementation of all commitments and recommendations contained in the Durban Declaration and Programme of Action as well as the outcome of the Durban Review Conference, and in this regard welcomes the steps taken by numerous Governments;

41. *Calls upon* all States that have not yet elaborated their national action plans on combating racism, racial discrimination, xenophobia and related intolerance to comply with their commitments undertaken at the World Conference of 2001;

42. *Calls upon* all States to formulate and implement without delay, at the national, regional and international levels, policies and plans of action to combat racism, racial discrimination, xenophobia and related intolerance, including their gender-based manifestations;

43. *Urges* States to support the activities of existing regional bodies or centres that combat racism, racial discrimination, xenophobia and related intolerance in their respective regions, and recommends the establishment of such bodies in all regions where they do not exist;

44. *Calls upon* those States that have not yet done so to consider signing and ratifying or acceding to the instruments enumerated in paragraph 78 of the Durban Programme of Action,⁹ including the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families of 1990;⁹

45. *Emphasizes* the fundamental and complementary role of national human rights institutions, regional bodies or centres and civil society, working jointly with States towards the elimination of all forms of racism and, in particular, towards the achievement of the objectives of the Durban Declaration and Programme of Action;

46. *Recognizes* the fundamental role of civil society in the fight against racism, racial discrimination, xenophobia and related intolerance, in particular in

⁹ United Nations, *Treaty Series*, vol. 2220, No. 39481.

helping States to develop regulations and strategies, in taking measures and action against such forms of discrimination and through follow-up implementation;

47. *Reaffirms its commitment* to eliminating all forms of racism, racial discrimination, xenophobia and other forms of related intolerance against indigenous peoples, and in this regard notes the attention paid to the objectives of combating prejudice, eliminating discrimination and promoting tolerance, understanding and good relations among indigenous peoples and all other segments of society in the United Nations Declaration on the Rights of Indigenous Peoples;¹⁰

48. *Acknowledges* that the World Conference of 2001, which was the third world conference against racism, was significantly different from the previous two conferences, as evidenced by the inclusion in its title of two important components relating to contemporary forms of racism, namely, xenophobia and related intolerance;

49. *Also acknowledges* that the outcomes of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and the Durban Review Conference are on an equal footing with the outcomes of all the major United Nations conferences, summits and special sessions in the human rights and social fields;

50. *Decides* to hold a one-day high-level meeting of the General Assembly to commemorate the tenth anniversary of the adoption of the Durban Declaration and Programme of Action, at the level of Heads of State and Government, on the second day of the general debate of the sixty-sixth session, under the theme "Victims of racism, racial discrimination, xenophobia and related intolerance: recognition, justice and development", consisting of an opening plenary meeting, consecutive round tables/thematic panels and a closing plenary meeting, and calls on the President of the General Assembly to appoint co-facilitators to conduct consultations on the scope, modalities, format and organization of the high-level meeting;

51. *Also decides* that the meeting will adopt a short and concise political declaration aimed at mobilizing political will at the national, regional and international levels for the full and effective implementation of the Durban Declaration and Programme of Action and its follow-up processes;

52. *Invites* Member States, international and regional organizations, civil society, including non-governmental organizations, and other stakeholders to organize and support various high-visibility initiatives, aimed at effectively increasing awareness at all levels, to commemorate the tenth anniversary of the adoption of the Durban Declaration and Programme of Action;

53. *Requests* the Secretary-General to establish a programme of outreach, with the involvement of Member States and United Nations funds and programmes as well as civil society, including non-governmental organizations, to appropriately commemorate the tenth anniversary of the adoption of the Durban Declaration and Programme of Action;

¹⁰ Resolution 61/295, annex.

54. *Emphasizes* the critical importance of increasing public support for the Durban Declaration and Programme of Action and the involvement of relevant stakeholders in its realization;

55. *Welcomes* the decision of the Human Rights Council to convene a panel discussion during the high-level segment of its sixteenth session focusing on the full enjoyment by people of African descent of their human rights, to mark the International Year for People of African Descent;¹¹

56. *Calls upon* Member States and the United Nations system to intensify efforts to widely distribute copies of the Durban Declaration and Programme of Action, and encourages efforts to ensure its translation and wide dissemination;

57. *Requests* the Office of the United Nations High Commissioner for Human Rights and the Department of Public Information of the Secretariat to launch a public information campaign for the commemoration of the tenth anniversary of the adoption of the Durban Declaration and Programme of Action, including the wide distribution of user-friendly information materials through the United Nations system, inter alia, through United Nations information centres;

58. *Welcomes* the decision of the Human Rights Council to dedicate part of the programme of work at its seventeenth session, under the item entitled "Racism, racial discrimination, xenophobia and related forms of intolerance, follow-up to and implementation of the Durban Declaration and Programme of Action" to a discussion on, inter alia, best practices in the fight against racism, racial discrimination, xenophobia and related intolerance in the context of the tenth anniversary of the Durban Declaration and Programme of Action during the high-level segment of the General Assembly;¹¹

59. *Also welcomes* the adoption of the laudable initiative led by the States members of the Caribbean Community and other Member States for the establishment of a permanent memorial at the United Nations to the victims of slavery and the transatlantic slave trade as a contribution towards the fulfilment of paragraph 101 of the Durban Declaration,¹ expresses its appreciation for contributions made to the voluntary fund established in this regard, and urges other countries to contribute to the fund;

60. *Expresses its appreciation* for the continuing work of the mechanisms mandated to follow up on the World Conference and the Durban Review Conference;

61. *Calls upon* the Human Rights Council to ensure that, upon the consideration and adoption of the conclusions and recommendations of the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action, the recommendations are brought to the attention of the relevant United Nations agencies for adoption and implementation within their respective mandates;

62. *Acknowledges* the centrality of resource mobilization, effective global partnership and international cooperation in the context of paragraphs 157 and 158 of the Durban Programme of Action¹ for the successful realization of commitments

¹¹ See *Official Records of the General Assembly, Sixty-fifth Session, Supplement No. 53* and corrigendum (A/65/53 and Corr.1), chap. III, sect. A, resolution 14/16.

undertaken at the World Conference, and to this end emphasizes the importance of the mandate of the group of independent eminent experts on the implementation of the Durban Declaration and Programme of Action, especially in mobilizing the political will necessary for the successful implementation of the Declaration and Programme of Action;

63. *Requests* the Secretary-General to provide the resources necessary for the effective fulfilment of the mandates of the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action, the Working Group of Experts on People of African Descent, the group of independent eminent experts on the implementation of the Durban Declaration and Programme of Action, and the Ad Hoc Committee on the Elaboration of Complementary Standards;

64. *Recalls* the request to the Human Rights Council to consider necessary measures to enhance the effectiveness of the follow-up mechanisms for the Durban Declaration and Programme of Action and to ensure better synergy and complementarities in the work of those mechanisms, and looks forward to the discussions with a view to enhancing the interface among and focus of the follow-up mechanisms in order to achieve greater synchronization and coordination at all levels, within their respective mandates, including through the restructuring and reorganization of their work, if deemed appropriate by the Council, and to allow joint discussions and meetings;

65. *Expresses concern* at the increasing incidence of racism in various sporting events, while noting with appreciation the efforts made by some governing bodies of the various sporting codes to combat racism, and in this regard invites all international sporting bodies to promote, through their national, regional and international federations, a world of sport free from racism and racial discrimination;

66. *Welcomes* the historic and unique dimension of the 2010 International Federation of Association Football World Cup in South Africa, which marked the first time that this major sporting event was held on the African continent;

67. *Expresses serious concern* at recent incidents of racism at sporting events targeting, in particular, Africans and people of African descent, and recalls the need to reverse this legacy of racism;

68. *Expresses its appreciation*, in this context, to the International Federation of Association Football for the initiative to introduce a visible theme on non-racism in football, and invites the Federation to continue this initiative at the 2014 World Cup soccer tournament to be held in Brazil;

69. *Calls upon* States to take advantage of mass sporting events as valuable outreach platforms to mobilize people and convey crucial messages about equality and non-discrimination;

70. *Acknowledges* the guidance and leadership role of the Human Rights Council, and encourages it to continue overseeing the implementation of the Durban Declaration and Programme of Action and the outcome document of the Durban Review Conference;

71. *Requests* the Office of the United Nations High Commissioner for Human Rights to continue to provide the Human Rights Council with all the necessary support for it to achieve its objectives in this regard;

V

Follow-up activities

72. *Strongly recommends* that future meetings of the Human Rights Council focusing on the follow-up to the World Conference and the implementation of the Durban Declaration and Programme of Action be scheduled in a manner that allows broad participation and avoids overlap with the meetings devoted to the consideration of this item in the General Assembly;

73. *Requests* the Secretary-General to submit to the General Assembly at its sixty-sixth session a report on the implementation of the present resolution, with recommendations;

74. *Decides* to remain seized of this important matter at its sixty-sixth session under the item entitled "Elimination of racism, racial discrimination, xenophobia and related intolerance".

28. The Third Committee recommends to the General Assembly the adoption of the following draft decision:

Report of the Secretary-General on global efforts for the total elimination of racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action

The General Assembly takes note of the report of the Secretary-General on global efforts for the total elimination of racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action¹ and the interim report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance.²

¹ A/65/377.

² See A/65/295.



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Agenda item 67

Right of peoples to self-determination

Report of the Third Committee

Rapporteur: Mr. Asif Garayev (Azerbaijan)

I. Introduction

1. At its 2nd plenary meeting, on 17 September 2010, the General Assembly, on the recommendation of the General Committee, decided to include in the agenda of its sixty-fifth session the item entitled "Right of peoples to self-determination" and to allocate it to the Third Committee.

2. The Third Committee, held a general discussion on the item jointly with item 66, entitled "Elimination of racism, racial discrimination, xenophobia and related intolerance", at its 36th, 37th and 40th meetings, on 1 and 3 November 2010, and considered proposals and took action on item 67 at its 43rd, 44th, 50th and 51st meetings, on 9, 11, 22 and 23 November. An account of the Committee's discussion is contained in the relevant summary records (A/C.3/65/SR.36, 37, 40, 43, 44, 50 and 51).

3. For its consideration of the item, the Committee had before it the report of the Secretary-General on the right of peoples to self-determination (A/65/286) and a note by the Secretary-General transmitting the report of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination (A/65/325).

4. At the 36th meeting, on 1 November, the Deputy Director of the Office of the United Nations High Commissioner for Human Rights made an introductory statement (see A/C.3/65/SR.36).

5. At the same meeting, the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance made a presentation and engaged in a dialogue with the representatives of Switzerland, Norway, Pakistan, Kenya, Singapore, Denmark, the Russian Federation, the Syrian Arab Republic, Brazil, the United States of America, Maldives and Algeria and the observer for the European Union (see A/C.3/65/SR.36).



6. Also at the same meeting, the Chair of the Committee on the Elimination of Racial Discrimination made a presentation and engaged in a dialogue with the representatives of Pakistan, Switzerland, Brazil, Norway and the Islamic Republic of Iran and the observer for the European Union (see A/C.3/65/SR.36).

7. Also at the 36th meeting, the Chair of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination made a presentation and engaged in a dialogue with the representatives of Cuba, Pakistan, China, the Russian Federation and South Africa (see A/C.3/65/SR.36).

II. Consideration of proposals

A. Draft resolution A/C.3/65/L.51

8. At the 43rd meeting, on 9 November, the representative of Pakistan, on behalf of Albania, Algeria, Angola, Armenia, Azerbaijan, Bahrain, Bangladesh, Benin, Bolivia (Plurinational State of), Brunei Darussalam, Cameroon, the Central African Republic, China, the Comoros, the Congo, Côte d'Ivoire, Egypt, El Salvador, Eritrea, Grenada, Iran (Islamic Republic of), Jordan, Kenya, Kuwait, Lebanon, the Libyan Arab Jamahiriya, Madagascar, Malaysia, Nicaragua, Nigeria, the Niger, Oman, Pakistan, Qatar, Saint Lucia, Saudi Arabia, Senegal, Seychelles, Singapore, Somalia, South Africa, the Sudan, Thailand, Togo, Tunisia, Uganda, the United Arab Emirates, Venezuela (Bolivarian Republic of) and Zimbabwe, introduced a draft resolution entitled "Universal realization of the right of peoples to self-determination" (A/C.3/65/L.51). Subsequently, the representatives of Burkina Faso, Ecuador, Ghana, Honduras, Jamaica, Maldives, Mali, Namibia, Sierra Leone, the United Republic of Tanzania and Zambia joined in sponsoring the draft resolution.

9. At its 44th meeting, on 11 November, the Committee adopted draft resolution A/C.3/65/L.51 (see para. 18, draft resolution I).

10. At the same meeting, the representatives of Belgium (on behalf of the European Union), the United States of America, Spain and the United Kingdom of Great Britain and Northern Ireland made statements after the adoption of the draft resolution (see A/C.3/65/SR.44).

B. Draft resolution A/C.3/65/L.52

11. At the 43rd meeting, on 9 November, the representative of Egypt, on behalf of Afghanistan, Albania, Algeria, Andorra, Angola, Armenia, Austria, Azerbaijan, Bahrain, Bangladesh, Belarus, Belgium, Belize, Benin, Bolivia (Plurinational State of), Botswana, Brunei Darussalam, Burundi, Cape Verde, the Central African Republic, China, the Comoros, the Congo, Côte d'Ivoire, Croatia, Cuba, Cyprus, the Democratic People's Republic of Korea, Djibouti, Ecuador, Egypt, El Salvador, Eritrea, Estonia, Ethiopia, Finland, France, Ghana, Greece, Grenada, Guinea-Bissau, Guinea, Guyana, Hungary, Iceland, India, Indonesia, Iraq, Ireland, Jamaica, Jordan, Kenya, Kuwait, the Lao People's Democratic Republic, Latvia, Lebanon, Lesotho, the Libyan Arab Jamahiriya, Luxembourg, Madagascar, Malaysia, Maldives, Mali, Malta, Mauritania, Monaco, Montenegro, Morocco, Mozambique, Myanmar,

Namibia, Nicaragua, the Niger, Norway, Oman, Pakistan, Poland, Portugal, Qatar, the Republic of Moldova, Romania, the Russian Federation, Serbia, Saint Lucia, Saint Vincent and the Grenadines, Saudi Arabia, Senegal, Seychelles, Sierra Leone, Slovakia, Slovenia, Somalia, South Africa, Sri Lanka, the Sudan, Suriname, Swaziland, Switzerland, Tajikistan, the former Yugoslav Republic of Macedonia, Timor-Leste, Tunisia, Turkey, Uganda, the United Arab Emirates, the United Kingdom of Great Britain and Northern Ireland, the United Republic of Tanzania, Uzbekistan, Venezuela (Bolivarian Republic of), Viet Nam, Yemen, Zambia, Zimbabwe and Palestine, introduced a draft resolution entitled "The right of the Palestinian people to self-determination" (A/C.3/65/L.52). Subsequently, Antigua and Barbuda, Barbados, Bosnia and Herzegovina, Brazil, Bulgaria, Burkina Faso, Costa Rica, Dominica, Gabon, the Gambia, Liberia, Liechtenstein, Lithuania, Malawi, Nigeria, Rwanda, San Marino, Spain, Sweden and Ukraine joined in sponsoring the draft resolution.

12. At its 50th meeting, the Committee adopted draft resolution A/C.3/65/L.52 by a recorded vote of 174 to 5, with 3 abstentions (see para. 18, draft resolution II). The voting was as follows:

In favour:

Afghanistan, Albania, Algeria, Andorra, Angola, Antigua and Barbuda, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Belize, Benin, Bhutan, Bolivia, Bosnia and Herzegovina, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Burundi, Cambodia, Cape Verde, Chile, China, Colombia, Comoros, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Democratic People's Republic of Korea, Denmark, Djibouti, Dominican Republic, Ecuador, Egypt, El Salvador, Eritrea, Estonia, Ethiopia, Fiji, Finland, France, Gabon, Gambia, Georgia, Germany, Ghana, Greece, Grenada, Guatemala, Guinea, Guyana, Haiti, Honduras, Hungary, Iceland, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kenya, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Latvia, Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malawi, Malaysia, Maldives, Mali, Malta, Mauritania, Mauritius, Mexico, Monaco, Mongolia, Montenegro, Morocco, Mozambique, Myanmar, Namibia, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Saudi Arabia, Senegal, Serbia, Seychelles, Sierra Leone, Singapore, Slovakia, Slovenia, Solomon Islands, Somalia, South Africa, Spain, Sri Lanka, Sudan, Suriname, Swaziland, Sweden, Switzerland, Syrian Arab Republic, Tajikistan, Thailand, the former Yugoslav Republic of Macedonia, Timor-Leste, Togo, Trinidad and Tobago, Tunisia, Turkey, Turkmenistan, Tuvalu, Uganda, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Uruguay, Uzbekistan, Vanuatu, Venezuela (Bolivarian Republic of), Viet Nam, Yemen, Zambia, Zimbabwe.

Against:

Israel, Marshall Islands, Micronesia (Federated States of), Nauru, United States of America.

Abstaining:

Cameroon, Canada, Democratic Republic of the Congo.

13. Before the vote, a statement was made by the representative of Israel; statements were made after the vote by the representatives of Argentina and the United Kingdom of Great Britain and Northern Ireland (see A/C.3/65/SR.50).

C. Draft resolution A/C.3/65/L.54 and Rev.1

14. At the 43rd meeting, on 9 November, the representative of Cuba, on behalf of Algeria, Angola, Belarus, Bolivia, China, the Comoros, Cuba, the Democratic People's Republic of Korea, Ecuador, Egypt, El Salvador, Eritrea, Ethiopia, Iran (Islamic Republic of), the Lao People's Democratic Republic, Lesotho, the Libyan Arab Jamahiriya, Malaysia, Myanmar, Namibia, Nicaragua, Pakistan, Peru, the Russian Federation, Saint Vincent and the Grenadines, Solomon Islands, South Africa, the Sudan, the Syrian Arab Republic, Venezuela (Bolivarian Republic of), Viet Nam and Zimbabwe, introduced a draft resolution entitled "Use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination" (A/C.3/65/L.54) which read:

"The General Assembly,

"Recalling all of its previous resolutions on the subject, including resolution 64/151 of 18 December 2009, and Human Rights Council resolutions 15/12 of 30 September 2010 and 15/26 of 1 October 2010, as well as all resolutions adopted by the Commission on Human Rights in this regard,

"Recalling also all of its relevant resolutions in which, inter alia, it condemned any State that permitted or tolerated the recruitment, financing, training, assembly, transit and use of mercenaries with the objective of overthrowing the Governments of States Members of the United Nations, especially those of developing countries, or of fighting against national liberation movements, and recalling further the relevant resolutions and international instruments adopted by the General Assembly, the Security Council, the Economic and Social Council and the Organization of African Unity, inter alia, the Organization of African Unity Convention for the elimination of mercenarism in Africa, as well as by the African Union,

"Reaffirming the purposes and principles enshrined in the Charter of the United Nations concerning the strict observance of the principles of sovereign equality, political independence, the territorial integrity of States, the self-determination of peoples, the non-use of force or of the threat of use of force in international relations and non-interference in affairs within the domestic jurisdiction of States,

"Reaffirming also that, by virtue of the principle of self-determination, all peoples have the right freely to determine their political status and to pursue their economic, social and cultural development, and that every State has the duty to respect this right in accordance with the provisions of the Charter,

"Reaffirming further the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations,

"Alarmed and concerned at the danger that the activities of mercenaries constitute to peace and security in developing countries, in particular in Africa and in small States,

"Deeply concerned at the loss of life, the substantial damage to property and the negative effects on the policy and economies of affected countries resulting from criminal mercenary activities,

"Extremely alarmed and concerned about recent mercenary activities in some developing countries in various parts of the world, including in areas of armed conflict, and the threat they pose to the integrity of and respect for the constitutional order of the affected countries,

"Convinced that, notwithstanding the way in which they are used or the form that they take to acquire some semblance of legitimacy, mercenaries or mercenary related activities are a threat to peace, security and the self-determination of peoples and an obstacle to the enjoyment of all human rights by peoples,

"1. *Takes note with appreciation* of the report of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination, and expresses its appreciation for the work of the experts of the Working Group;

"2. *Reaffirms* that the use of mercenaries and their recruitment, financing and training are causes for grave concern to all States and violate the purposes and principles enshrined in the Charter of the United Nations;

"3. *Recognizes* that armed conflict, terrorism, arms trafficking and covert operations by third Powers, inter alia, encourage the demand for mercenaries on the global market;

"4. *Urges once again* all States to take the steps necessary and to exercise the utmost vigilance against the menace posed by the activities of mercenaries and to take legislative measures to ensure that their territories and other territories under their control, as well as their nationals, are not used for the recruitment, assembly, financing, training, protection or transit of mercenaries for the planning of activities designed to impede the right of peoples to self-determination, to destabilize or overthrow the Government of any State or to dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the right of peoples to self-determination;

"5. *Requests* all States to exercise the utmost vigilance against any kind of recruitment, training, hiring or financing of mercenaries by private companies offering international military consultancy and security services, as well as to impose a specific ban on such companies intervening in armed conflicts or actions to destabilize constitutional regimes;

"6. *Encourages* States that import the military assistance, consultancy and security services provided by private companies to establish regulatory

national mechanisms for the registering and licensing of those companies in order to ensure that imported services provided by those private companies neither impede the enjoyment of human rights nor violate human rights in the recipient country;

"7. *Emphasizes* its utmost concern about the impact of the activities of private military and security companies on the enjoyment of human rights, in particular when operating in armed conflicts, and notes that private military and security companies and their personnel are rarely held accountable for violations of human rights;

"8. *Calls upon* all States that have not yet done so to consider taking the action necessary to accede to or ratify the International Convention against the Recruitment, Use, Financing and Training of Mercenaries;

"9. *Welcomes* the cooperation extended by those countries that received a visit by the Working Group and the adoption by some States of national legislation that restricts the recruitment, assembly, financing, training and transit of mercenaries;

"10. *Condemns* recent mercenary activities in developing countries in various parts of the world, in particular in areas of conflict, and the threat they pose to the integrity of and respect for the constitutional order of those countries and the exercise of the right of their peoples to self-determination, and stresses the importance for the Working Group of looking into sources and root causes, as well as the political motivations of mercenaries and for mercenary-related activities;

"11. *Calls upon* States to investigate the possibility of mercenary involvement whenever and wherever criminal acts of a terrorist nature occur and to bring to trial those found responsible or to consider their extradition, if so requested, in accordance with domestic law and applicable bilateral or international treaties;

"12. *Condemns* any form of impunity granted to perpetrators of mercenary activities and to those responsible for the use, recruitment, financing and training of mercenaries, and urges all States, in accordance with their obligations under international law, to bring them, without distinction, to justice;

"13. *Calls upon* Member States, in accordance with their obligations under international law, to cooperate with and assist the judicial prosecution of those accused of mercenary activities in transparent, open and fair trials;

"14. *Requests* the Working Group to continue the work already done by the previous Special Rapporteurs on the strengthening of the international legal framework for the prevention and sanction of the recruitment, use, financing and training of mercenaries, taking into account the proposal for a new legal definition of a mercenary drafted by the Special Rapporteur in his report to the Commission on Human Rights at its sixtieth session, including the elaboration and presentation of concrete proposals on possible complementary and new standards aimed at filling existing gaps, as well as general guidelines or basic principles encouraging the further protection of human rights, in particular the right of peoples to self-determination, while

facing current and emergent threats posed by mercenaries or mercenary-related activities;

"15. *Requests* the Office of the United Nations High Commissioner for Human Rights, as a matter of priority, to publicize the adverse effects of the activities of mercenaries on the right of peoples to self-determination and, when requested and where necessary, to render advisory services to States that are affected by those activities;

"16. *Expresses its appreciation* to the Office of the High Commissioner for its support for the holding of the five regional governmental consultations on traditional and new forms of mercenary activities as a means of violating human rights and impeding the exercise of the right of peoples to self-determination, in particular regarding the effects of the activities of private military and security companies on the enjoyment of human rights;

"17. *Notes with appreciation* the work of the Working Group on the elaboration of concrete principles on the regulation of private companies offering military assistance, consultancy and other military security related services on the international market, which it carried out after country visits and through the process of regional consultations, and in consultation with academics and intergovernmental and non-governmental organizations, and also its work on the draft convention on the regulation, monitoring and oversight of private military and security companies for consideration by Member States;

"18. *Encourages* Member States to carefully consider the draft proposal of the Working Group for a possible new international legal instrument regulating private military and security companies and recommends to all Member States, including those confronted with the phenomenon of private military and security companies as contracting States, States of operations, home States or States whose nationals are employed to work for a private military and security company, to contribute to the Human Rights Council's open-ended Working Group tasked with elaborating a new convention regulating private military and security companies, taking into account the initial work done by the Working Group on the use of mercenaries;

"19. *Urges* all States to cooperate fully with the Working Group in the fulfilment of its mandate;

"20. *Requests* the Secretary-General and the United Nations High Commissioner for Human Rights to provide the Working Group with all the assistance and support necessary for the fulfilment of its mandate, both professional and financial, including through the promotion of cooperation between the Working Group and other components of the United Nations system that deal with countering mercenary-related activities, in order to meet the demands of its current and future activities;

"21. *Requests* the Working Group to consult States and intergovernmental and non-governmental organizations in the implementation of the present resolution and to report, with specific recommendations, to the General Assembly at its sixty-sixth session its findings on the use of mercenaries to undermine the enjoyment of all human rights and to impede the exercise of the right of peoples to self-determination;

"22. *Decides* to consider at its sixty-sixth session the question of the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination under the item entitled 'Right of peoples to self-determination'."

15. At its 51st meeting, on 23 November, the Committee had before it a revised draft resolution entitled "Use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination" (A/C.3/65/L.54/Rev.1) submitted by the sponsors of A/C.3/65/L.54 as well as the Gambia, India, Madagascar, Mali, Nigeria, Sri Lanka and Swaziland.

16. At the same meeting, the Committee adopted draft resolution A/C.3/65/L.54/Rev.1 by a recorded vote of 123 to 52, with 6 abstentions (see para. 18, draft resolution III). The voting was as follows:

In favour:

Afghanistan, Algeria, Angola, Antigua and Barbuda, Argentina, Armenia, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belize, Benin, Bhutan, Bolivia, Botswana, Brazil, Brunei Darussalam, Burkina Faso, Cambodia, Cameroon, Cape Verde, Chile, China, Comoros, Congo, Costa Rica, Cuba, Democratic People's Republic of Korea, Democratic Republic of the Congo, Djibouti, Dominican Republic, Ecuador, Egypt, El Salvador, Eritrea, Ethiopia, Gabon, Gambia, Ghana, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, India, Indonesia, Iran (Islamic Republic of), Iraq, Jamaica, Jordan, Kazakhstan, Kenya, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Lebanon, Lesotho, Libyan Arab Jamahiriya, Madagascar, Malawi, Malaysia, Maldives, Mali, Mauritania, Mauritius, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nepal, Nicaragua, Niger, Nigeria, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Qatar, Russian Federation, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Sao Tome and Principe, Saudi Arabia, Senegal, Sierra Leone, Singapore, Solomon Islands, Somalia, South Africa, Sri Lanka, Sudan, Suriname, Swaziland, Syrian Arab Republic, Tajikistan, Thailand, Timor-Leste, Togo, Trinidad and Tobago, Tunisia, Tuvalu, Uganda, United Arab Emirates, United Republic of Tanzania, Uruguay, Uzbekistan, Vanuatu, Venezuela (Bolivarian Republic of), Viet Nam, Yemen, Zambia, Zimbabwe.

Against:

Albania, Andorra, Australia, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Marshall Islands, Micronesia (Federated States of), Monaco, Montenegro, Netherlands, New Zealand, Norway, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, San Marino, Serbia, Slovakia, Slovenia, Spain, Sweden, the former Yugoslav Republic of Macedonia, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining:

Colombia, Côte d'Ivoire, Fiji, Liberia, Mexico, Switzerland.

17. Before the vote, the representatives of Belgium (on behalf of the European Union and associated countries) and Switzerland made statements; after the vote, statements were made by the representatives of Argentina and the United Kingdom of Great Britain and Northern Ireland (see A/C.3/65/SR.51).

III. Recommendations of the Third Committee

18. The Third Committee recommends to the General Assembly the adoption of the following draft resolutions:

Draft resolution I

Universal realization of the right of peoples to self-determination

The General Assembly,

Reaffirming the importance, for the effective guarantee and observance of human rights, of the universal realization of the right of peoples to self-determination enshrined in the Charter of the United Nations and embodied in the International Covenants on Human Rights,¹ as well as in the Declaration on the Granting of Independence to Colonial Countries and Peoples contained in General Assembly resolution 1514 (XV) of 14 December 1960,

Welcoming the progressive exercise of the right to self-determination by peoples under colonial, foreign or alien occupation and their emergence into sovereign statehood and independence,

Deeply concerned at the continuation of acts or threats of foreign military intervention and occupation that are threatening to suppress, or have already suppressed, the right to self-determination of peoples and nations,

Expressing grave concern that, as a consequence of the persistence of such actions, millions of people have been and are being uprooted from their homes as refugees and displaced persons, and emphasizing the urgent need for concerted international action to alleviate their condition,

Recalling the relevant resolutions regarding the violation of the right of peoples to self-determination and other human rights as a result of foreign military intervention, aggression and occupation, adopted by the Commission on Human Rights at its sixty-first² and previous sessions,

Reaffirming its previous resolutions on the universal realization of the right of peoples to self-determination, including resolution 64/149 of 18 December 2009,

Reaffirming also its resolution 55/2 of 8 September 2000, containing the United Nations Millennium Declaration, and recalling its resolution 60/1 of 16 September 2005, containing the 2005 World Summit Outcome, which, inter alia, upheld the right to self-determination of peoples under colonial domination and foreign occupation,

Taking note of the report of the Secretary-General on the right of peoples to self-determination,³

1. *Reaffirms* that the universal realization of the right of all peoples, including those under colonial, foreign and alien domination, to self-determination

¹ Resolution 2200 A (XXI), annex.

² See *Official Records of the Economic and Social Council, 2005, Supplement No. 3* and corrigenda (E/2005/23 and Corr.1 and 2), chap. II, sect. A.

³ A/65/286.

is a fundamental condition for the effective guarantee and observance of human rights and for the preservation and promotion of such rights;

2. *Declares its firm opposition* to acts of foreign military intervention, aggression and occupation, since these have resulted in the suppression of the right of peoples to self-determination and other human rights in certain parts of the world;

3. *Calls upon* those States responsible to cease immediately their military intervention in and occupation of foreign countries and territories and all acts of repression, discrimination, exploitation and maltreatment, in particular the brutal and inhuman methods reportedly employed for the execution of those acts against the peoples concerned;

4. *Deplores* the plight of millions of refugees and displaced persons who have been uprooted as a result of the aforementioned acts, and reaffirms their right to return to their homes voluntarily in safety and with honour;

5. *Requests* the Human Rights Council to continue to give special attention to violations of human rights, especially the right to self-determination, resulting from foreign military intervention, aggression or occupation;

6. *Requests* the Secretary-General to report on the question to the General Assembly at its sixty-sixth session under the item entitled "Right of peoples to self-determination".

Draft resolution II

The right of the Palestinian people to self-determination

The General Assembly,

Aware that the development of friendly relations among nations, based on respect for the principle of equal rights and self-determination of peoples, is among the purposes and principles of the United Nations, as defined in the Charter,

Recalling, in this regard, its resolution 2625 (XXV) of 24 October 1970 entitled "Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations",

Bearing in mind the International Covenants on Human Rights,¹ the Universal Declaration of Human Rights,² the Declaration on the Granting of Independence to Colonial Countries and Peoples³ and the Vienna Declaration and Programme of Action adopted at the World Conference on Human Rights on 25 June 1993,⁴

Recalling the Declaration on the Occasion of the Fiftieth Anniversary of the United Nations,⁵

Recalling also the United Nations Millennium Declaration,⁶

Recalling further the advisory opinion rendered on 9 July 2004 by the International Court of Justice on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*,⁷ and noting in particular the reply of the Court, including on the right of peoples to self-determination, which is a right *erga omnes*,⁸

Recalling the conclusion of the Court, in its advisory opinion of 9 July 2004, that the construction of the wall by Israel, the occupying Power, in the Occupied Palestinian Territory, including East Jerusalem, along with measures previously taken, severely impedes the right of the Palestinian people to self-determination,⁹

Expressing the urgent need for the resumption and accelerated advancement of negotiations within the Middle East peace process, based on the relevant United Nations resolutions, the Madrid terms of reference, including the principle of land for peace, the Arab Peace Initiative¹⁰ and the Quartet road map,¹¹ and for the

¹ Resolution 2200 A (XXI), annex.

² Resolution 217 A (III).

³ Resolution 1514 (XV).

⁴ A/CONF.157/24 (Part I), chap. III.

⁵ See resolution 50/6.

⁶ See resolution 55/2.

⁷ See A/ES-10/273 and Corr.1; see also *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004*, p. 136.

⁸ See A/ES-10/273 and Corr.1, advisory opinion, para. 88; see also *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004*, p. 136.

⁹ See A/ES-10/273 and Corr.1, advisory opinion, para. 122; see also *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004*, p. 136.

¹⁰ A/56/1026-S/2002/932, annex II, resolution 14/221.

¹¹ S/2003/529, annex.

speedy achievement of a just, lasting and comprehensive peace settlement between the Palestinian and Israeli sides,

Stressing the need for respect for and preservation of the territorial unity, contiguity and integrity of all of the Occupied Palestinian Territory, including East Jerusalem, and recalling in this regard its resolution 58/292 of 6 May 2004,

Recalling its resolution 64/150 of 18 December 2009,

Affirming the right of all States in the region to live in peace within secure and internationally recognized borders,

1. *Reaffirms* the right of the Palestinian people to self-determination, including the right to their independent State of Palestine;
2. *Urges* all States and the specialized agencies and organizations of the United Nations system to continue to support and assist the Palestinian people in the early realization of their right to self-determination.

Draft resolution III

Use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination

The General Assembly,

Recalling all of its previous resolutions on the subject, including resolution 64/151 of 18 December 2009, and Human Rights Council resolutions 15/12 of 30 September 2010 and 15/26 of 1 October 2010,¹ as well as all resolutions adopted by the Commission on Human Rights in this regard,

Recalling also all of its relevant resolutions in which, inter alia, it condemned any State that permitted or tolerated the recruitment, financing, training, assembly, transit or use of mercenaries with the objective of overthrowing the Governments of States Members of the United Nations, especially those of developing countries, or of fighting against national liberation movements, and recalling further the relevant resolutions and international instruments adopted by the General Assembly, the Security Council, the Economic and Social Council and the Organization of African Unity, inter alia, the Organization of African Unity Convention for the elimination of mercenarism in Africa,² as well as by the African Union,³

Reaffirming the purposes and principles enshrined in the Charter of the United Nations concerning the strict observance of the principles of sovereign equality, political independence, the territorial integrity of States, the self-determination of peoples, the non-use of force or of the threat of use of force in international relations and non-interference in affairs within the domestic jurisdiction of States,

Reaffirming also that, by virtue of the principle of self-determination, all peoples have the right freely to determine their political status and to pursue their economic, social and cultural development, and that every State has the duty to respect this right in accordance with the provisions of the Charter,

Reaffirming further the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations,⁴

Welcoming the establishment of the open-ended intergovernmental Working Group of the Human Rights Council with the mandate of considering the possibility of elaborating an international regulatory framework, including the option of elaborating a legally binding instrument on the regulation, monitoring and oversight of the activities of private military and security companies,

Alarmed and concerned at the danger that the activities of mercenaries constitute to peace and security in developing countries, in particular in Africa and in small States,

¹ See *Official Records of the General Assembly, Sixty-fifth Session, Supplement No. 53A* (A/65/53/Add.1), chap. II.

² United Nations, *Treaty Series*, vol. 1490, No. 25573.

³ On 8 July 2002, the Organization of African Unity ceased to exist and, in its place, the African Union came into force on 9 July 2002.

⁴ Resolution 2625 (XXV), annex.

Deeply concerned at the loss of life, the substantial damage to property and the negative effects on the policy and economies of affected countries resulting from criminal mercenary activities,

Extremely alarmed and concerned about recent mercenary activities in some developing countries in various parts of the world, including in areas of armed conflict, and the threat they pose to the integrity of and respect for the constitutional order of the affected countries,

Convinced that, notwithstanding the way in which they are used or the form that they take to acquire some semblance of legitimacy, mercenaries or mercenary-related activities are a threat to peace, security and the self-determination of peoples and an obstacle to the enjoyment of all human rights by peoples,

1. *Takes note with appreciation* of the report of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination,⁵ and expresses its appreciation for the work of the experts of the Working Group;

2. *Reaffirms* that the use of mercenaries and their recruitment, financing and training are causes for grave concern to all States and violate the purposes and principles enshrined in the Charter of the United Nations;

3. *Recognizes* that armed conflict, terrorism, arms trafficking and covert operations by third Powers, inter alia, encourage the demand for mercenaries on the global market;

4. *Urges once again* all States to take the steps necessary and to exercise the utmost vigilance against the menace posed by the activities of mercenaries and to take legislative measures to ensure that their territories and other territories under their control, as well as their nationals, are not used for the recruitment, assembly, financing, training, protection or transit of mercenaries for the planning of activities designed to impede the right of peoples to self-determination, to destabilize or overthrow the Government of any State or to dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the right of peoples to self-determination;

5. *Requests* all States to exercise the utmost vigilance against any kind of recruitment, training, hiring or financing of mercenaries by private companies offering international military consultancy and security services, as well as to impose a specific ban on such companies intervening in armed conflicts or actions to destabilize constitutional regimes;

6. *Encourages* States that import the military assistance, consultancy and security services provided by private companies to establish regulatory national mechanisms for the registering and licensing of those companies in order to ensure that imported services provided by those private companies neither impede the enjoyment of human rights nor violate human rights in the recipient country;

7. *Emphasizes* its utmost concern about the impact of the activities of private military and security companies on the enjoyment of human rights, in particular when operating in armed conflicts, and notes that private military and

⁵ See A/65/325.

security companies and their personnel are rarely held accountable for violations of human rights;

8. *Calls upon* all States that have not yet done so to consider taking the action necessary to accede to or ratify the International Convention against the Recruitment, Use, Financing and Training of Mercenaries;⁶

9. *Welcomes* the cooperation extended by those countries that received a visit by the Working Group and the adoption by some States of national legislation that restricts the recruitment, assembly, financing, training and transit of mercenaries;

10. *Condemns* recent mercenary activities in developing countries in various parts of the world, in particular in areas of conflict, and the threat they pose to the integrity of and respect for the constitutional order of those countries and the exercise of the right of their peoples to self-determination, and stresses the importance for the Working Group of looking into sources and root causes, as well as the political motivations of mercenaries and for mercenary-related activities;

11. *Calls upon* States to investigate the possibility of mercenary involvement whenever and wherever criminal acts of a terrorist nature occur and to bring to trial those found responsible or to consider their extradition, if so requested, in accordance with domestic law and applicable bilateral or international treaties;

12. *Condemns* any form of impunity granted to perpetrators of mercenary activities and to those responsible for the use, recruitment, financing and training of mercenaries, and urges all States, in accordance with their obligations under international law, to bring them, without distinction, to justice;

13. *Calls upon* Member States, in accordance with their obligations under international law, to cooperate with and assist the judicial prosecution of those accused of mercenary activities in transparent, open and fair trials;

14. *Requests* the Working Group to continue the work already done by the previous Special Rapporteurs on the strengthening of the international legal framework for the prevention and sanction of the recruitment, use, financing and training of mercenaries, taking into account the proposal for a new legal definition of a mercenary drafted by the Special Rapporteur in his report to the Commission on Human Rights at its sixtieth session,⁷ including the elaboration and presentation of concrete proposals on possible complementary and new standards aimed at filling existing gaps, as well as general guidelines or basic principles encouraging the further protection of human rights, in particular the right of peoples to self-determination, while facing current and emergent threats posed by mercenaries or mercenary-related activities;

15. *Requests* the Office of the United Nations High Commissioner for Human Rights, as a matter of priority, to publicize the adverse effects of the activities of mercenaries on the right of peoples to self-determination and, when requested and where necessary, to render advisory services to States that are affected by those activities;

⁶ United Nations, *Treaty Series*, vol. 2163, No. 37789.

⁷ See E/CN.4/2004/15, para. 47.

16. *Expresses its appreciation* to the Office of the High Commissioner for its support for the holding of the five regional governmental consultations on traditional and new forms of mercenary activities as a means of violating human rights and impeding the exercise of the right of peoples to self-determination, in particular regarding the effects of the activities of private military and security companies on the enjoyment of human rights;

17. *Notes with appreciation* the work of the Working Group on the elaboration of concrete principles on the regulation of private companies offering military assistance, consultancy and other military security-related services on the international market, which it carried out after country visits and through the process of regional consultations, and in consultation with academics and intergovernmental and non-governmental organizations, and also takes note of its work on the draft convention on the regulation, monitoring and oversight of private military and security companies for consideration by Member States;

18. *Encourages* Member States to carefully consider the proposal of the Working Group for a possible new international legal instrument regulating private military and security companies,⁸ and recommends to all Member States, including those confronted with the phenomenon of private military and security companies as contracting States, States of operations, home States or States whose nationals are employed to work for a private military and security company, to contribute to the work of the open-ended intergovernmental Working Group of the Human Rights Council with the mandate of considering the possibility of elaborating an international regulatory framework, including the option of elaborating a legally binding instrument on the regulation, monitoring and oversight of the activities of private military and security companies, taking into account the initial work done by the Working Group on the use of mercenaries;

19. *Urges* all States to cooperate fully with the Working Group in the fulfilment of its mandate;

20. *Requests* the Secretary-General and the United Nations High Commissioner for Human Rights to provide the Working Group with all the assistance and support necessary for the fulfilment of its mandate, both professional and financial, including through the promotion of cooperation between the Working Group and other components of the United Nations system that deal with countering mercenary-related activities, in order to meet the demands of its current and future activities;

21. *Requests* the Working Group to consult States and intergovernmental and non-governmental organizations in the implementation of the present resolution and to report, with specific recommendations, to the General Assembly at its sixty-sixth session its findings on the use of mercenaries to undermine the enjoyment of all human rights and to impede the exercise of the right of peoples to self-determination;

22. *Decides* to consider at its sixty-sixth session the question of the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination under the item entitled "Right of peoples to self-determination".

⁸ A/65/325, annex.



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Agenda item 68

Promotion and protection of human rights

Report of the Third Committee*

Rapporteur: Mr. Asif Garayev (Azerbaijan)

I. Introduction

1. At its 2nd plenary meeting, on 17 September 2010, the General Assembly, on the recommendation of the General Committee, decided to include in the agenda of its sixty-fifth session the item entitled:

“Promotion and protection of human rights:

“(a) Implementation of human rights instruments;

“(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms;

“(c) Human rights situations and reports of special rapporteurs and representatives;

“(d) Comprehensive implementation of and follow-up to the Vienna Declaration and Programme of Action”

and to allocate it to the Third Committee.

2. An account of the Third Committee’s consideration of the item is given in the addenda to the present report.

3. For its consideration of the item, the Committee had before it the following documents:

* The report of the Committee on this item is being issued in five parts, under the symbol A/65/456 and Add.1-4.

Item 68**Promotion and protection of human rights**

Letter dated 24 August 2010 from the representative of Brazil to the President of the General Assembly (A/65/336)

Item 68 (a)**Implementation of human rights instruments**

Report of the Human Rights Committee on its ninety-seventh, ninety-eighth and ninety-ninth sessions¹

Report of the Committee against Torture on its forty-third and forty-fourth sessions²

Report of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families on its eleventh and twelfth sessions³

Report of the Secretary-General on the status of the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery (A/65/94)

Report of the Secretary-General on the United Nations Voluntary Fund for Victims of Torture (A/65/265)

Note by the Secretary-General transmitting the report of the chairs of the human rights treaty bodies on their twenty-second meeting (A/65/190)

Note by the Secretary-General transmitting the report of the Office of the United Nations High Commissioner for Human Rights on an evaluation of the use of additional meeting time by the human rights treaty bodies (A/65/317)

Note by the Secretary-General on the Special Fund established by the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (A/65/381)

Item 68 (b)**Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms**

Report of the Secretary-General on human rights and unilateral coercive measures (A/65/119)

Report of the Secretary-General on the promotion and protection of human rights, including ways and means to promote the human rights of migrants (A/65/156)

Report of the Secretary-General on globalization and its impact on the full enjoyment of all human rights (A/65/171)

Report of the Secretary-General on protecting human rights and fundamental freedoms while countering terrorism (A/65/224)

Report of the Secretary-General on the draft programme of activities for the International Year for People of African Descent (A/65/227 and Add.1)

¹ *Official Records of the General Assembly, Sixty-fifth Session, Supplement No. 40 (A/65/40), vols. I and II.*

² *Ibid., Supplement No. 44 (A/65/44).*

³ *Ibid., Supplement No. 48 (A/65/48).*

Report of the Secretary-General on the International Convention for the Protection of All Persons from Enforced Disappearance (A/65/257)

Report of the Secretary-General on combating defamation of religions (A/65/263)

Report of the Secretary-General on moratoriums on the use of the death penalty (A/65/280 and Corr.1)

Report of the Secretary-General on missing persons (A/65/285)

Report of the Secretary-General on the role of the Ombudsman, mediator and other national human rights institutions in the promotion and protection of human rights (A/65/340)

Report of the Secretary-General on regional arrangements for the promotion and protection of human rights (A/65/369)

Note by the Secretary-General transmitting the interim report of the Special Rapporteur on the right to education (A/65/162)

Note by the Secretary-General transmitting the interim report of the Special Rapporteur on freedom of religion or belief (A/65/207)

Note by the Secretary-General transmitting the report of the Special Rapporteur on the human rights of migrants (A/65/222)

Note by the Secretary-General transmitting the report of the Special Rapporteur on the situation of human rights defenders (A/65/223)

Note by the Secretary-General transmitting the report of the independent expert on the issue of human rights obligations related to access to safe drinking water and sanitation (A/65/254)

Note by the Secretary-General transmitting the report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (A/65/255)

Note by the Secretary-General on the right to development (A/65/256)

Note by the Secretary-General transmitting the report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (A/65/258)

Note by the Secretary-General transmitting the report of the independent expert on the question of human rights and extreme poverty (A/65/259)

Note by the Secretary-General transmitting the report of the independent expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights (A/65/260 and Corr.1)

Note by the Secretary-General transmitting the report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living and on the right to non-discrimination in this context (A/65/261)

Note by the Secretary-General transmitting the interim report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (A/65/273)

Note by the Secretary-General transmitting the interim report of the Special Rapporteur on the independence of judges and lawyers (A/65/274)

Note by the Secretary-General transmitting the interim report of the Special Rapporteur on the right to food (A/65/281)

Note by the Secretary-General transmitting the report of his Representative on the human rights of internally displaced persons (A/65/282 and Corr.1)

Note by the Secretary-General transmitting the report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (A/65/284)

Note by the Secretary-General transmitting the report of the independent expert on minority issues on the effective promotion of the Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities (A/65/287)

Note by the Secretary-General transmitting the interim report of the Special Rapporteur on trafficking in persons, especially women and children (A/65/288)

Note by the Secretary-General transmitting the report of his Special Representative on the issue of human rights and transnational corporations and other business enterprises (A/65/310)

Note by the Secretary-General transmitting the interim report of the Special Rapporteur of the Human Rights Council on extrajudicial, summary or arbitrary executions (A/65/321)

Note by the Secretary-General on the final evaluation of the implementation of the first phase of the World Programme for Human Rights Education (A/65/322)

Note by the Secretariat on the report of the Working Group on the Right to Development on its eleventh session (A/65/87)

Item 68 (c)

Human rights situations and reports of special rapporteurs and representatives

Report of the Secretary-General on the situation of human rights in Myanmar (A/65/367)

Report of the Secretary-General on the situation of human rights in the Islamic Republic of Iran (A/65/370)

Report of the Secretary-General on the situation of human rights in the Democratic People's Republic of Korea (A/65/391)

Note by the Secretary-General transmitting the report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 (A/65/331)

Note by the Secretary-General transmitting the report of the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea (A/65/364)

Note by the Secretary-General transmitting the report of the Special Rapporteur on the situation of human rights in Myanmar (A/65/368)

Letter dated 20 October 2010 from the representative of Myanmar to the Secretary-General (A/C.3/65/2)

Item 68 (d)

Comprehensive implementation of and follow-up to the Vienna Declaration and Programme of Action

Report of the United Nations High Commissioner for Human Rights⁴

II. Consideration of a draft decision proposed by the Chair

4. At its 52nd meeting, on 23 November, on the proposal of the Chair, the Committee decided to recommend to the General Assembly that it take note of a number of documents considered in connection with the question of human rights (see para. 5).

⁴ Ibid., *Supplement No. 36* (A/65/36).

III. Recommendation of the Third Committee

5. The Third Committee recommends to the General Assembly the adoption of the following draft decision:

Reports considered by the General Assembly in connection with the promotion and protection of human rights

The General Assembly takes note of the following reports submitted under the item entitled "Promotion and protection of human rights":

Under sub-item (a):

- (a) Report of the Human Rights Committee on its ninety-seventh, ninety-eighth and ninety-ninth sessions;¹
- (b) Report of the Committee against Torture on its forty-third and forty-fourth sessions;²
- (c) Report of the Secretary-General on the status of the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery;³
- (d) Report of the Secretary-General on the United Nations Voluntary Fund for Victims of Torture;⁴
- (e) Note by the Secretary-General transmitting the report of the chairs of the human rights treaty bodies on their twenty-second meeting;⁵
- (f) Note by the Secretary-General transmitting the report of the Office of the United Nations High Commissioner for Human Rights on an evaluation of the use of additional meeting time by the human rights treaty bodies;⁶
- (g) Note by the Secretary-General on the Special Fund established by the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;⁷

Under sub-item (b):

- (a) Report of the Secretary-General on the promotion and protection of human rights, including ways and means to promote the human rights of migrants;⁸
- (b) Report of the Secretary-General on regional arrangements for the promotion and protection of human rights;⁹

¹ *Official Records of the General Assembly, Sixty-fifth Session, Supplement No. 40 (A/65/40), vols. I and II.*

² *Ibid., Supplement No. 44 (A/65/44).*

³ A/65/94.

⁴ A/65/265.

⁵ A/65/190.

⁶ A/65/317.

⁷ A/65/381.

⁸ A/65/156.

⁹ A/65/369.

- (c) Note by the Secretary-General transmitting the interim report of the Special Rapporteur on the right to education;¹⁰
- (d) Note by the Secretary-General transmitting the report of the Special Rapporteur on the human rights of migrants;¹¹
- (e) Note by the Secretary-General transmitting the report of the Special Rapporteur on the situation of human rights defenders;¹²
- (f) Note by the Secretary-General transmitting the report of the independent expert on the issue of human rights obligations related to access to safe drinking water and sanitation;¹³
- (g) Note by the Secretary-General transmitting the report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health;¹⁴
- (h) Note by the Secretary-General on the right to development;¹⁵
- (i) Note by the Secretary-General transmitting the report of the independent expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights;¹⁶
- (j) Note by the Secretary-General transmitting the report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living and on the right to non-discrimination in this context;¹⁷
- (k) Note by the Secretary-General transmitting the interim report of the Special Rapporteur on the independence of judges and lawyers;¹⁸
- (l) Note by the Secretary-General transmitting the report of his Representative on the human rights of internally displaced persons;¹⁹
- (m) Note by the Secretary-General transmitting the report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression;²⁰
- (n) Note by the Secretary-General transmitting the report of the independent expert on minority issues on the effective promotion of the Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities;²¹

¹⁰ A/65/162.

¹¹ A/65/222.

¹² A/65/223.

¹³ A/65/254.

¹⁴ A/65/255.

¹⁵ A/65/256.

¹⁶ A/65/260 and Corr.1.

¹⁷ A/65/261.

¹⁸ A/65/274.

¹⁹ A/65/282 and Corr.1.

²⁰ A/65/284.

²¹ A/65/287.

- (o) Note by the Secretary-General transmitting the interim report of the Special Rapporteur on trafficking in persons, especially women and children;²²
- (p) Note by the Secretary-General transmitting the report of his Special Representative on the issue of human rights and transnational corporations and other business enterprises;²³
- (q) Note by the Secretary-General on the final evaluation of the implementation of the first phase of the World Programme for Human Rights Education;²⁴
- (r) Note by the Secretariat on the report of the Working Group on the Right to Development on its eleventh session;²⁵

Under sub-item (c):

Note by the Secretary-General transmitting the report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967;²⁶

Under sub-item (d):

Report of the United Nations High Commissioner for Human Rights;²⁷

²² A/65/288.

²³ A/65/310.

²⁴ A/65/322.

²⁵ A/65/87.

²⁶ A/65/331.

²⁷ *Official Records of the General Assembly, Sixty-fifth Session, Supplement No. 36 (A/65/36).*



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Agenda item 68 (a)

Promotion and protection of human rights: implementation of human rights instruments

Report of the Third Committee*

Rapporteur: Mr. Asif Garayev (Azerbaijan)

I. Introduction

1. At its 2nd plenary meeting, on 17 September 2010, the General Assembly, on the recommendation of the General Committee, decided to include in the agenda of its sixty-fifth session, under the item entitled "Promotion and protection of human rights", the sub-item entitled "Implementation of human rights instruments" and to allocate it to the Third Committee.
2. The Third Committee considered the sub-item at its 20th, 21st, 29th, 31st, 42nd and 44th meetings, on 19, 25 and 26 October and on 4 and 11 November 2010. An account of the Committee's consideration of the sub-item is contained in the relevant summary records (A/C.3/65/SR.20, 21, 29, 31, 42 and 44).
3. For the documents before the Committee under this sub-item, see document A/65/456.
4. At the 20th meeting, on 19 October, the Assistant Secretary-General for Human Rights made an introductory statement (see A/C.3/65/SR.20).
5. At the same meeting, the Chair of the Committee against Torture made a presentation and engaged in a dialogue with the representatives of Costa Rica, Switzerland, Chile, Denmark, Mexico, Maldives, Algeria and India, as well as the observer for the European Union (see A/C.3/65/SR.20).

* The report of the Committee on this item is being issued in five parts, under the symbol A/65/456 and Add.1-4.



6. The Chair of the Subcommittee on Prevention of Torture also made a presentation and engaged in a dialogue with the representatives of Switzerland, Denmark, Brazil, Costa Rica, Chile, the Czech Republic and Mexico, as well as the observer for the European Union (see A/C.3/65/SR.20).

7. At the 29th meeting, on 25 October, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment made a presentation and engaged in a dialogue with the representatives of Greece, Jordan, the Republic of Moldova, Jamaica, Pakistan, Egypt, Switzerland, Liechtenstein and the United States of America, as well as the observer for the European Union (see A/C.3/65/SR.29).

II. Consideration of proposals

A. Draft resolution A/C.3/65/L.25 and Rev.1

8. At the 31st meeting, on 26 October, the representative of Denmark, on behalf of Albania, Argentina, Austria, Brazil, Chile, Costa Rica, Côte d'Ivoire, Croatia, Cyprus, the Czech Republic, Denmark, the Dominican Republic, Estonia, Finland, France, Greece, Guatemala, Honduras, Hungary, Iceland, Italy, Luxembourg, Malta, Montenegro, the Netherlands, Norway, Poland, Romania, San Marino, Slovakia, Slovenia, Spain, Sweden and Switzerland, introduced a draft resolution entitled "Committee against Torture" (A/C.3/65/L.25), which read:

"The General Assembly,

"Recalling the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,

"Welcoming the work of the Committee against Torture,

"Regretting the persistent backlog of reports of States parties and individual communications awaiting consideration, which prevent the Committee from considering reports and communications in a timely manner and without undue delay,

"Noting the request of the Committee that the General Assembly authorize an extension of its meeting time,

"Noting also that the Committee has only 10 members and currently only meets for two sessions of three weeks a year,

"1. Expresses its appreciation for the efforts made so far by the Committee to improve the efficiency of its working methods, including with a view to further harmonizing the working methods of the treaty bodies, and encourages the Committee to continue its activities in this regard;

"2. Decides to authorize the Committee to meet for an additional week per session as a temporary measure, with effect from May 2011 until end November 2012."

9. At its 44th meeting, on 11 November, the Committee had before it a revised draft resolution entitled "Committee against Torture" (A/C.3/65/L.25/Rev.1), submitted by the sponsors of draft resolution A/C.3/65/L.25 and Armenia, Belgium,

Canada, Israel, Madagascar, the Republic of Korea and Venezuela (Bolivarian Republic of).

10. At the same meeting, the representative of Denmark orally revised the text as follows:

(a) In operative paragraph 2, after the words "November 2012", the words "in order to address the backlog of reports of States parties and individual complaints awaiting consideration" were inserted;

(b) Operative paragraph 3, which read:

"3. *Requests* the Secretary-General to submit to the General Assembly at its sixty-sixth session concrete proposals on the human rights treaty bodies, building on the work of the Secretary-General pursuant to Human Rights Council resolution 9/8 of 24 September 2008 and of the treaty bodies in this regard, to improve their effectiveness and to identify efficiencies in their working methods and costs in order better to manage their workloads and programmes of work, bearing in mind budgetary constraints and taking account of the varying burdens on each treaty body",

was replaced by:

"3. *Requests* the Secretary-General to submit to the General Assembly at its sixty-sixth session concrete and tailored proposals on the human rights treaty bodies, including the Committee against Torture, building on the work of the Secretary-General pursuant to Human Rights Council resolution 9/8 of 24 September 2008 and of the treaty bodies in this regard, to improve their effectiveness and to identify efficiencies in their working methods and resource requirements in order better to manage their workloads, bearing in mind budgetary constraints and taking account of the varying burdens on each treaty body".

11. At the same meeting, Benin, Bolivia (Plurinational State of), Bulgaria, Ecuador, Germany, Ireland, Latvia, Lithuania, Mali, Peru, Portugal, the Republic of Moldova, Serbia, the former Yugoslav Republic of Macedonia, Turkey and Ukraine joined in sponsoring the draft resolution.

12. At the same meeting, the Committee adopted draft resolution A/C.3/65/L.25/Rev.1, as orally revised (see para. 17, draft resolution I).

B. Draft resolution A/C.3/65/L.26 and Rev.1

13. At the 31st meeting, on 26 October, the representative of Denmark, on behalf of Albania, Argentina, Australia, Austria, Belgium, Brazil, Bulgaria, Canada, Chile, Costa Rica, Croatia, Cyprus, the Czech Republic, Denmark, the Dominican Republic, El Salvador, Estonia, Finland, France, Germany, Greece, Guatemala, Honduras, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Mexico, Micronesia (Federated States of), Montenegro, the Netherlands, New Zealand, Norway, Peru, Poland, Portugal, Romania, San Marino, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, Ukraine, the United Kingdom of Great Britain and Northern Ireland and Uruguay, introduced a draft resolution entitled "Torture and other cruel, inhuman or degrading treatment or punishment" (A/C.3/65/L.26), which read:

"The General Assembly,

"Reaffirming that no one shall be subjected to torture or to other cruel, inhuman or degrading treatment or punishment,

"Recalling that freedom from torture and other cruel, inhuman or degrading treatment or punishment is a non-derogable right that must be protected under all circumstances, including in times of international or internal armed conflict or disturbance or any other public emergency, that the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment is affirmed in relevant international instruments, and that legal and procedural safeguards against such acts must not be subject to measures that would circumvent this right,

"Recalling also that the prohibition of torture is a peremptory norm of international law and that international, regional and domestic courts have held the prohibition of cruel, inhuman or degrading treatment or punishment to be customary international law,

"Recalling further the definition of torture contained in article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, without prejudice to any international instrument or national legislation which contains or may contain provisions of wider application,

"Emphasizing the importance of properly interpreting and implementing the obligations of States with respect to torture and other cruel, inhuman or degrading treatment or punishment, and of abiding strictly by the definition of torture contained in article 1 of the Convention,

"Noting that under the Geneva Conventions of 1949, torture and inhuman treatment are a grave breach and that under the statute of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, the statute of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 and the Rome Statute of the International Criminal Court, acts of torture can constitute crimes against humanity and, when committed in a situation of armed conflict, constitute war crimes,

"Emphasizing that the entry into force as soon as possible of the International Convention for the Protection of All Persons from Enforced Disappearance and its implementation will make a significant contribution to the prevention and prohibition of torture, including by prohibiting secret places of detention, and encouraging all States that have not done so to consider signing, ratifying or acceding to the Convention,

"Commending the persistent efforts of civil society organizations, including non-governmental organizations, national human rights institutions and the considerable network of centres for the rehabilitation of victims of torture, to prevent and combat torture and to alleviate the suffering of victims of torture,

"1. *Condemns* all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment;

"2. *Emphasizes* that States must take persistent, determined and effective measures to prevent and combat all acts of torture and other cruel, inhuman or degrading treatment or punishment, stresses that all acts of torture must be made offences under domestic criminal law, and encourages States to prohibit under domestic law acts constituting cruel, inhuman or degrading treatment or punishment;

"3. *Welcomes* the establishment of national preventive mechanisms to prevent torture and other cruel, inhuman or degrading treatment or punishment, encourages all States that have not yet done so to establish such mechanisms, and calls upon States parties to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to fulfil their obligation to designate or establish truly independent and effective national preventive mechanisms for the prevention of torture and other cruel, inhuman or degrading treatment or punishment;

"4. *Emphasizes* the importance of States cooperating with the relevant treaty bodies and mechanisms, including the Committee against Torture, the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Special Rapporteur of the Human Rights Council on torture and other cruel, inhuman or degrading treatment or punishment and ensuring proper follow-up to their recommendations and conclusions;

"5. *Condemns* any action or attempt by States or public officials to legalize, authorize or acquiesce in torture and other cruel, inhuman or degrading treatment or punishment under any circumstances, including on grounds of national security, during internal political instability or any other public emergency, or through judicial decisions;

"6. *Stresses* that an independent, competent domestic authority must promptly, effectively and impartially investigate all allegations of torture or other cruel, inhuman or degrading treatment or punishment, as well as wherever there is reasonable ground to believe that such an act has been committed, and that those who encourage, order, tolerate or perpetrate such acts must be held responsible, brought to justice and punished in a manner commensurate with the severity of the offence, including the officials in charge of the place of detention where the prohibited act is found to have been committed;

"7. *Takes note* in this respect of the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Principles) as a useful tool in efforts to prevent and combat torture and of the updated set of principles for the protection of human rights through action to combat impunity;

"8. *Calls upon* all States to implement effective measures to prevent torture and other cruel, inhuman or degrading treatment or punishment, particularly in places of detention and other places where persons are deprived of their liberty, including education and training of personnel who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment;

"9. *Urges* States to ensure that no authority or official orders, applies, permits or tolerates any sanction against any person or organization for having communicated to any national or international monitoring or preventive body or to their delegates any information regarding allegations of torture or other cruel, inhuman or degrading treatment or punishment, and that States do not in any way prejudice a person or organization for communicating such information;

"10. *Calls upon* all States to adopt a gender-sensitive approach in the fight against torture and other cruel, inhuman or degrading treatment or punishment, paying special attention to gender-based violence;

"11. *Also calls upon* States to ensure that the rights of persons with disabilities, bearing in mind the Convention on the Rights of Persons with Disabilities, are fully integrated into torture prevention and protection, and welcomes the efforts of the Special Rapporteur in this regard;

"12. *Encourages* all States to ensure that persons convicted of torture or other cruel, inhuman or degrading treatment or punishment have no subsequent involvement in the custody, interrogation or treatment of any person under arrest, detention, imprisonment or other deprivation of liberty, and to ensure that persons charged with torture or other cruel, inhuman or degrading treatment or punishment have no involvement in the custody, interrogation or treatment of any person under arrest, detention, imprisonment or other deprivation of liberty while such charges are pending;

"13. *Emphasizes* that acts of torture in armed conflict are serious violations of international humanitarian law and in this regard constitute war crimes, that acts of torture can constitute crimes against humanity and that the perpetrators of all acts of torture must be prosecuted and punished;

"14. *Strongly urges* States to ensure that no statement that is established to have been made as a result of torture is invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made, calls upon States to consider extending that prohibition to statements made as a result of cruel, inhuman or degrading treatment or punishment, and recognizes that adequate corroboration of statements, including confessions, used as evidence in any proceedings constitutes a safeguard for the prevention of torture and other cruel, inhuman or degrading treatment or punishment;

"15. *Stresses* that States must not punish personnel for not obeying orders to commit or conceal acts amounting to torture or other cruel, inhuman or degrading treatment or punishment;

"16. *Urges* States not to expel, return (refouler), extradite or in any other way transfer a person to another State where there are substantial grounds for

believing that the person would be in danger of being subjected to torture, and recognizes that diplomatic assurances, where used, do not release States from their obligations under international human rights, humanitarian and refugee law, in particular the principle of non-refoulement;

"17. *Recalls* that, for the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations, including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights;

"18. *Calls upon* States parties to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to fulfil their obligation to submit for prosecution or extradite those alleged to have committed acts of torture, and encourages other States to do likewise, bearing in mind the need to fight impunity;

"19. *Stresses* that national legal systems must ensure that victims of torture and other cruel, inhuman or degrading treatment or punishment obtain redress, are awarded fair and adequate compensation and receive appropriate social, psychological, medical and other specialized rehabilitation, and urges States to establish, maintain, facilitate or support rehabilitation centres for victims of torture and to ensure the safety of their staff and patients;

"20. *Recalls* its resolution 43/173 of 9 December 1988 on the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, and in this context stresses that ensuring that any individual arrested or detained is promptly brought before a judge or other independent judicial officer in person and permitting prompt and regular medical care and legal counsel as well as visits by family members and independent monitoring mechanisms are effective measures for the prevention of torture and other cruel, inhuman or degrading treatment or punishment;

"21. *Reminds* all States that prolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment, and urges all States to respect the safeguards concerning the liberty, security and dignity of the person and to ensure that secret places of detention and interrogation are abolished;

"22. *Emphasizes* that conditions of detention must respect the dignity and human rights of detainees, highlights the importance of reflecting on this in efforts to promote respect for and protection of the rights of detainees, and notes in this regard concerns about solitary confinement;

"23. *Calls upon* all States to take appropriate effective legislative, administrative, judicial and other measures to prevent and prohibit the production, trade, export and use of equipment that is specifically designed to inflict torture or other cruel, inhuman or degrading treatment or punishment;

"24. *Urges* all States that have not yet done so to become parties to the Convention as a matter of priority, and calls upon States parties to give early consideration to signing and ratifying the Optional Protocol to the Convention;

"25. *Urges* all States parties to the Convention that have not yet done so to make the declarations provided for in articles 21 and 22 concerning inter-State and individual communications, to consider the possibility of withdrawing their reservations to article 20, and to notify the Secretary-General of their acceptance of the amendments to articles 17 and 18 with a view to enhancing the effectiveness of the Committee against Torture as soon as possible;

"26. *Urges* States parties to comply strictly with their obligations under the Convention, including, in view of the high number of reports not submitted in time, their obligation to submit reports in accordance with article 19 of the Convention, and invites States parties to incorporate a gender perspective and information concerning children and juveniles and persons with disabilities when submitting reports to the Committee;

"27. *Welcomes* the work of the Committee and its report submitted in accordance with article 24 of the Convention, recommends that the Committee continue to include information on the follow-up by States to its recommendations, and supports the Committee in its intention to further improve the effectiveness of its working methods;

"28. *Invites* the Chairs of the Committee and the Subcommittee to present oral reports on the work of the committees and to engage in an interactive dialogue with the General Assembly at its sixty-sixth session under the sub-item entitled 'Implementation of human rights instruments';

"29. *Calls upon* the United Nations High Commissioner for Human Rights, in conformity with her mandate established by the General Assembly in its resolution 48/141 of 20 December 1993, to continue to provide, at the request of States, advisory services for the prevention of torture and other cruel, inhuman or degrading treatment or punishment, including for the preparation of national reports to the Committee and for the establishment and operation of national preventive mechanisms, as well as technical assistance for the development, production and distribution of teaching material for this purpose;

"30. *Welcomes* the interim report of the Special Rapporteur, and encourages the Special Rapporteur to continue to include in his recommendations proposals on the prevention and investigation of torture and other cruel, inhuman or degrading treatment or punishment, including its gender-based manifestations;

"31. *Requests* the Special Rapporteur to continue to consider including in his report information on the follow-up by States to his recommendations, visits and communications, including progress made and problems encountered, and on other official contacts;

"32. *Calls upon* all States to cooperate with and assist the Special Rapporteur in the performance of his task, to supply all necessary information requested by the Special Rapporteur, to fully and expeditiously respond to and follow up on his urgent appeals, to give serious consideration to responding favourably to requests by the Special Rapporteur to visit their countries and to enter into a constructive dialogue with the Special Rapporteur on requested

visits to their countries as well as with respect to the follow-up to his recommendations;

"33. *Stresses* the need for the continued regular exchange of views among the Committee, the Subcommittee, the Special Rapporteur and other relevant United Nations mechanisms and bodies, as well as for the pursuance of cooperation with relevant United Nations programmes, notably the United Nations Crime Prevention and Criminal Justice Programme, with regional organizations and mechanisms, as appropriate, and civil society organizations, including non-governmental organizations, with a view to enhancing further their effectiveness and cooperation on issues relating to the prevention and eradication of torture, inter alia, by improving their coordination;

"34. *Recognizes* the global need for international assistance to victims of torture, stresses the importance of the work of the Board of Trustees of the United Nations Voluntary Fund for Victims of Torture, appeals to all States and organizations to contribute annually to the Fund, preferably with a substantial increase in the level of contributions, and encourages contributions to the Special Fund established by the Optional Protocol to help finance the implementation of the recommendations made by the Subcommittee as well as education programmes of the national preventive mechanisms;

"35. *Requests* the Secretary-General to continue to transmit to all States the appeals of the General Assembly for contributions to the Funds and to include the Funds on an annual basis among the programmes for which funds are pledged at the United Nations Pledging Conference for Development Activities;

"36. *Also requests* the Secretary-General to submit to the Human Rights Council and to the General Assembly at its sixty-sixth session a report on the operations of the Funds;

"37. *Further requests* the Secretary-General to ensure, within the overall budgetary framework of the United Nations, the provision of adequate staff and facilities for the bodies and mechanisms involved in preventing and combating torture and assisting victims of torture or other cruel, inhuman or degrading treatment or punishment, including in particular the Committee against Torture, the Subcommittee on Prevention of Torture and the Special Rapporteur on torture, commensurate with the strong support expressed by Member States for preventing and combating torture and assisting victims of torture, in order to enable them to discharge their mandates in a comprehensive, sustained and effective manner and taking fully into account the specific nature of their assignments;

"38. *Calls upon* all States, the Office of the United Nations High Commissioner for Human Rights and other United Nations bodies and agencies, as well as relevant intergovernmental and civil society organizations, including non-governmental organizations, to commemorate, on 26 June, the United Nations International Day in Support of Victims of Torture;

"39. *Decides* to consider at its sixty-sixth session the reports of the Secretary-General, including the report on the United Nations Voluntary Fund for Victims of Torture and the Special Fund established by the Optional Protocol, the report of the Committee against Torture and the interim report of

the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.”

14. At its 42nd meeting, on 4 November, the Committee had before it a revised draft resolution entitled “Torture and other cruel, inhuman or degrading treatment or punishment” (A/C.3/65/L.26/Rev.1), submitted by the sponsors of draft resolution A/C.3/65/L.26 and Andorra, Angola, Armenia, Azerbaijan, Bangladesh, Belarus, Benin, Bolivia (Plurinational State of), Bosnia and Herzegovina, Burkina Faso, Ecuador, Georgia, Jordan, Iraq, Israel, Kyrgyzstan, Mali, Mongolia, Morocco, Nicaragua, Panama, Paraguay, the Republic of Korea, the Republic of Moldova, the former Yugoslav Republic of Macedonia, Timor-Leste, Togo, Turkey, the United States of America and Venezuela (Bolivarian Republic of).

15. At the same meeting, the representative of Denmark orally revised the draft resolution by inserting the words “or facilities” after the words “rehabilitation centres” in operative paragraph 19.

16. At the same meeting, the Committee adopted draft resolution A/C.3/65/L.26/Rev.1, as orally revised (see para. 17, draft resolution II).

III. Recommendations of the Third Committee

17. The Third Committee recommends to the General Assembly the adoption of the following draft resolutions:

Draft resolution I Committee against Torture

The General Assembly,

Recalling the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,¹

Welcoming the work of the Committee against Torture,

Regretting the persistent backlog of reports of States parties and individual communications awaiting consideration, which prevents the Committee from considering reports and communications in a timely manner and without undue delay,

Noting the request of the Committee that the General Assembly authorize an extension of its meeting time,

Noting also that the Committee has only ten members and currently only meets for two sessions of three weeks a year,

Noting further that the estimated budgetary requirements of the requested extension of meeting time will be met within the programme budget approved for the biennium 2010-2011 and will be further dealt with in the context of the proposed programme budget for the biennium 2012-2013, while bearing in mind the need to make the best possible use of resources,

Taking note of the note by the Secretary-General on the evaluation of the use of additional meeting time by the human rights treaty bodies,² the increasing workload of the treaty bodies and the increasing number of requests from them for more meeting time,

1. *Expresses its appreciation* for the efforts made so far by the Committee against Torture to improve the efficiency of its working methods, including with a view to further harmonizing the working methods of the treaty bodies, and encourages the Committee to continue its activities in this regard;

2. *Decides* to authorize the Committee to meet for an additional week per session as a temporary measure, with effect from May 2011 until the end of November 2012, in order to address the backlog of reports of States parties and individual complaints awaiting consideration;

3. *Requests* the Secretary-General to submit to the General Assembly at its sixty-sixth session concrete and tailored proposals on the human rights treaty bodies, including the Committee against Torture, building on the work of the Secretary-General pursuant to Human Rights Council resolution 9/8 of

¹ United Nations, *Treaty Series*, vol. 1465, No. 24841.

² A/65/317.

24 September 2008³ and of the treaty bodies in this regard, to improve their effectiveness and to identify efficiencies in their working methods and resource requirements in order to better manage their workloads, bearing in mind budgetary constraints and taking account of the varying burdens on each treaty body.

³ See *Official Records of the General Assembly, Sixty-third Session, Supplement No. 53A* (A/63/53/Add.1), chap. I.

Draft resolution II

Torture and other cruel, inhuman or degrading treatment or punishment

The General Assembly,

Reaffirming that no one shall be subjected to torture or to other cruel, inhuman or degrading treatment or punishment,

Recalling that freedom from torture and other cruel, inhuman or degrading treatment or punishment is a non-derogable right that must be protected under all circumstances, including in times of international or internal armed conflict or disturbance or any other public emergency, that the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment is affirmed in relevant international instruments, and that legal and procedural safeguards against such acts must not be subject to measures that would circumvent this right,

Recalling also that the prohibition of torture is a peremptory norm of international law and that international, regional and domestic courts have held the prohibition of cruel, inhuman or degrading treatment or punishment to be customary international law,

Recalling further the definition of torture contained in article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,¹ without prejudice to any international instrument or national legislation which contains or may contain provisions of wider application,

Emphasizing the importance of properly interpreting and implementing the obligations of States with respect to torture and other cruel, inhuman or degrading treatment or punishment, and of abiding strictly by the definition of torture contained in article 1 of the Convention,

Noting that under the Geneva Conventions of 1949,² torture and inhuman treatment are a grave breach and that under the statute of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, the statute of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 and the Rome Statute of the International Criminal Court,³ acts of torture can constitute crimes against humanity and, when committed in a situation of armed conflict, constitute war crimes,

Emphasizing that the entry into force as soon as possible of the International Convention for the Protection of All Persons from Enforced Disappearance⁴ and its implementation will make a significant contribution to the prevention and prohibition of torture, including by prohibiting secret places of detention, and

¹ United Nations, *Treaty Series*, vol. 1465, No. 24841.

² *Ibid.*, vol. 75, Nos. 970-973.

³ *Ibid.*, vol. 2187, No. 38544.

⁴ Resolution 61/177, annex.

encouraging all States that have not done so to consider signing, ratifying or acceding to the Convention,

Commending the persistent efforts of civil society organizations, including non-governmental organizations, national human rights institutions and the considerable network of centres for the rehabilitation of victims of torture, to prevent and combat torture and to alleviate the suffering of victims of torture,

1. *Condemns* all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment;

2. *Emphasizes* that States must take persistent, determined and effective measures to prevent and combat all acts of torture and other cruel, inhuman or degrading treatment or punishment, stresses that all acts of torture must be made offences under domestic criminal law, and encourages States to prohibit under domestic law acts constituting cruel, inhuman or degrading treatment or punishment;

3. *Welcomes* the establishment of national preventive mechanisms to prevent torture and other cruel, inhuman or degrading treatment or punishment, encourages all States that have not yet done so to establish such mechanisms, and calls upon States parties to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment⁵ to fulfil their obligation to designate or establish truly independent and effective national preventive mechanisms for the prevention of torture and other cruel, inhuman or degrading treatment or punishment;

4. *Emphasizes* the importance of States' ensuring proper follow-up to the recommendations and conclusions of the relevant treaty bodies and mechanisms, including the Committee against Torture, the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Special Rapporteur of the Human Rights Council on torture and other cruel, inhuman or degrading treatment or punishment;

5. *Condemns* any action or attempt by States or public officials to legalize, authorize or acquiesce in torture and other cruel, inhuman or degrading treatment or punishment under any circumstances, including on grounds of national security or through judicial decisions;

6. *Stresses* that an independent, competent domestic authority must promptly, effectively and impartially investigate all allegations of torture or other cruel, inhuman or degrading treatment or punishment, as well as wherever there is reasonable ground to believe that such an act has been committed, and that those who encourage, order, tolerate or perpetrate such acts must be held responsible, brought to justice and punished in a manner commensurate with the severity of the offence, including the officials in charge of the place of detention where the prohibited act is found to have been committed;

⁵ Resolution 57/199, annex.

7. *Takes note* in this respect of the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Principles)⁶ as a useful tool in efforts to prevent and combat torture and of the updated set of principles for the protection of human rights through action to combat impunity;⁷

8. *Calls upon* all States to implement effective measures to prevent torture and other cruel, inhuman or degrading treatment or punishment, particularly in places of detention and other places where persons are deprived of their liberty, including education and training of personnel who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment;

9. *Urges* States, as an important element in preventing and combating torture and other cruel, inhuman or degrading treatment or punishment, to ensure that no authority or official orders, applies, permits or tolerates any sanction or other prejudice against any person or organization for having been in contact with any national or international monitoring or preventive body active in the prevention and combating of torture and other cruel, inhuman or degrading treatment or punishment;

10. *Calls upon* all States to adopt a gender-sensitive approach in the fight against torture and other cruel, inhuman or degrading treatment or punishment, paying special attention to gender-based violence;

11. *Calls upon* States to ensure that the rights of persons with disabilities, bearing in mind the Convention on the Rights of Persons with Disabilities,⁸ are fully integrated into torture prevention and protection, and welcomes the efforts of the Special Rapporteur in this regard;

12. *Encourages* all States to ensure that persons convicted of torture or other cruel, inhuman or degrading treatment or punishment have no subsequent involvement in the custody, interrogation or treatment of any person under arrest, detention, imprisonment or other deprivation of liberty, and to ensure that persons charged with torture or other cruel, inhuman or degrading treatment or punishment have no involvement in the custody, interrogation or treatment of any person under arrest, detention, imprisonment or other deprivation of liberty while such charges are pending;

13. *Emphasizes* that acts of torture in armed conflict are serious violations of international humanitarian law and in this regard constitute war crimes, that acts of torture can constitute crimes against humanity and that the perpetrators of all acts of torture must be prosecuted and punished;

14. *Strongly urges* States to ensure that no statement that is established to have been made as a result of torture is invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made, calls upon States to consider extending that prohibition to statements made as a result of cruel, inhuman or degrading treatment or punishment, and recognizes that adequate corroboration of statements, including confessions, used as evidence in

⁶ Resolution 55/89, annex.

⁷ See E/CN.4/2005/102/Add.1.

⁸ Resolution 61/106, annex I.

any proceedings constitutes one safeguard for the prevention of torture and other cruel, inhuman or degrading treatment or punishment;

15. *Stresses* that States must not punish personnel for not obeying orders to commit or conceal acts amounting to torture or other cruel, inhuman or degrading treatment or punishment;

16. *Urges* States not to expel, return ("refouler"), extradite or in any other way transfer a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture, and recognizes that diplomatic assurances, where used, do not release States from their obligations under international human rights, humanitarian and refugee law, in particular the principle of non-refoulement;

17. *Recalls* that, for the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations, including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights;

18. *Calls upon* States parties to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment¹ to fulfil their obligation to submit for prosecution or extradite those alleged to have committed acts of torture, and encourages other States to do likewise, bearing in mind the need to fight impunity;

19. *Stresses* that national legal systems must ensure that victims of torture and other cruel, inhuman or degrading treatment or punishment obtain redress, are awarded fair and adequate compensation and receive appropriate social, psychological, medical and other relevant specialized rehabilitation, and urges States to establish, maintain, facilitate or support rehabilitation centres or facilities where victims of torture can receive such treatment and where effective measures for ensuring the safety of their staff and patients are taken;

20. *Recalls* its resolution 43/173 of 9 December 1988 on the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, and in this context stresses that ensuring that any individual arrested or detained is promptly brought before a judge or other independent judicial officer in person and permitting prompt and regular medical care and legal counsel as well as visits by family members and independent monitoring mechanisms are effective measures for the prevention of torture and other cruel, inhuman or degrading treatment or punishment;

21. *Reminds* all States that prolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment, and urges all States to respect the safeguards concerning the liberty, security and dignity of the person and to ensure that secret places of detention and interrogation are abolished;

22. *Emphasizes* that conditions of detention must respect the dignity and human rights of detainees, highlights the importance of reflecting on this in efforts to promote respect for and protection of the rights of detainees, and notes in this regard concerns about solitary confinement;

23. *Calls upon* all States to take appropriate effective legislative, administrative, judicial and other measures to prevent and prohibit the production, trade, export and use of equipment that is specifically designed to inflict torture or other cruel, inhuman or degrading treatment or punishment;

24. *Urges* all States that have not yet done so to become parties to the Convention as a matter of priority, and calls upon States parties to give early consideration to signing and ratifying the Optional Protocol to the Convention;

25. *Urges* all States parties to the Convention that have not yet done so to make the declarations provided for in articles 21 and 22 concerning inter-State and individual communications, to consider the possibility of withdrawing their reservations to article 20, and to notify the Secretary-General of their acceptance of the amendments to articles 17 and 18 with a view to enhancing the effectiveness of the Committee against Torture as soon as possible;

26. *Urges* States parties to comply strictly with their obligations under the Convention, including, in view of the high number of reports not submitted in time, their obligation to submit reports in accordance with article 19 of the Convention, and invites States parties to incorporate a gender perspective and information concerning children and juveniles and persons with disabilities when submitting reports to the Committee;

27. *Welcomes* the work of the Committee and its report submitted in accordance with article 24 of the Convention,⁹ recommends that the Committee continue to include information on the follow-up by States to its recommendations, and supports the Committee in its intention to further improve the effectiveness of its working methods;

28. *Invites* the Chairs of the Committee and the Subcommittee to present oral reports on the work of the committees and to engage in an interactive dialogue with the General Assembly at its sixty-sixth session under the sub-item entitled "Implementation of human rights instruments";

29. *Calls upon* the United Nations High Commissioner for Human Rights, in conformity with her mandate established by the General Assembly in its resolution 48/141 of 20 December 1993, to continue to provide, at the request of States, advisory services for the prevention of torture and other cruel, inhuman or degrading treatment or punishment, including for the preparation of national reports to the Committee and for the establishment and operation of national preventive mechanisms, as well as technical assistance for the development, production and distribution of teaching material for this purpose;

30. *Takes note with appreciation* of the interim report of the Special Rapporteur,¹⁰ and encourages the Special Rapporteur to continue to include in his recommendations proposals on the prevention and investigation of torture and other cruel, inhuman or degrading treatment or punishment, including its gender-based manifestations;

31. *Requests* the Special Rapporteur to continue to consider including in his report information on the follow-up by States to his recommendations, visits and

⁹ Official Records of the General Assembly, Sixty-fifth Session, Supplement No. 44 (A/65/44).

¹⁰ See A/65/273.

communications, including progress made and problems encountered, and on other official contacts;

32. *Calls upon* all States to cooperate with and assist the Special Rapporteur in the performance of his task, to supply all necessary information requested by the Special Rapporteur, to fully and expeditiously respond to and follow up on his urgent appeals, to give serious consideration to responding favourably to requests by the Special Rapporteur to visit their countries and to enter into a constructive dialogue with the Special Rapporteur on requested visits to their countries as well as with respect to the follow-up to his recommendations;

33. *Stresses* the need for the continued regular exchange of views among the Committee, the Subcommittee, the Special Rapporteur and other relevant United Nations mechanisms and bodies, as well as for the pursuance of cooperation with relevant United Nations programmes, notably the United Nations Crime Prevention and Criminal Justice Programme, with regional organizations and mechanisms, as appropriate, and civil society organizations, including non-governmental organizations, with a view to enhancing further their effectiveness and cooperation on issues relating to the prevention and eradication of torture, inter alia, by improving their coordination;

34. *Recognizes* the global need for international assistance to victims of torture, stresses the importance of the work of the Board of Trustees of the United Nations Voluntary Fund for Victims of Torture, appeals to all States and organizations to contribute annually to the Fund, preferably with a substantial increase in the level of contributions, and encourages contributions to the Special Fund established by the Optional Protocol to help finance the implementation of the recommendations made by the Subcommittee as well as education programmes of the national preventive mechanisms;

35. *Requests* the Secretary-General to continue to transmit to all States the appeals of the General Assembly for contributions to the Funds and to include the Funds on an annual basis among the programmes for which funds are pledged at the United Nations Pledging Conference for Development Activities;

36. *Also requests* the Secretary-General to submit to the Human Rights Council and to the General Assembly at its sixty-sixth session a report on the operations of the Funds;

37. *Further requests* the Secretary-General to ensure, within the overall budgetary framework of the United Nations, the provision of adequate staff and facilities for the bodies and mechanisms involved in preventing and combating torture and assisting victims of torture or other cruel, inhuman or degrading treatment or punishment, including in particular the Committee against Torture, the Subcommittee on Prevention of Torture and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, commensurate with the strong support expressed by Member States for preventing and combating torture and assisting victims of torture, in order to enable them to discharge their mandates in a comprehensive, sustained and effective manner and taking fully into account the specific nature of their mandates;

38. *Calls upon* all States, the Office of the United Nations High Commissioner for Human Rights and other United Nations bodies and agencies, as well as relevant intergovernmental and civil society organizations, including

non-governmental organizations, to commemorate, on 26 June, the United Nations International Day in Support of Victims of Torture;

39. *Decides* to consider at its sixty-sixth session the reports of the Secretary-General, including the report on the United Nations Voluntary Fund for Victims of Torture and the Special Fund established by the Optional Protocol, the report of the Committee against Torture and the interim report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.